

# The U. P. Public Services (Tribunal) Act, 1976<sup>1</sup>

(U.P. Act No. XVII of 1976)

[As Amended up-to U.P. Act No. 12 of 2003

*An Act to provide for the <sup>2</sup>[Constitution of a tribunal] to adjudicate disputes in respect of matters relating to employment of all public servants of the State*

It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows :

1. **Short title, extent, commencement and application**—(1) This Act may be called the Uttarakhand [The Uttar Pradesh Public Services (Tribunal) (Amendment) Act, 2009  
(2.) It extends to the whole of the State of Uttarakhand.  
(3.) It shall come into force with immediate effect.
2. In the Uttar Pradesh Public Services (Tribunal) Act, 1976 (As applicable in the State of Uttarakhand), hereinafter referred to as the Principal Act, wherever the expression 'Uttar Pradesh' occurs the same shall be read as 'Uttarakhand'.

(3) It shall be deemed to have come into force on November 24, 1975.

(4) This section and Sections 2 and 6 shall apply in relation to all public servants while the remaining provisions shall not apply to the following classes of public servants, namely—

- (a) a member of a judicial service ;
- (b) <sup>3</sup>[an officer or servant of the High Court or of a court subordinate to the High Court ;]
- (c) a member of the secretariat staff of any House of the State Legislature ;
- (d) a member of the Staff of the State Public Service Commission;
- (e) a workman as defined in the Industrial Disputes Act, 1947 (Act XIV of 1947), or the United Provinces Industrial Disputes Act, 1947 (U.P. Act No. XXVIII of 1947).
- (f) <sup>4</sup>[a member of the staff of the Lok Ayukta.]
- (g) <sup>5</sup>[the Chairman, Vice-Chairman, Members, Officers or other employees of the Tribunal.]

1. Published under Noti. No. 1738/VII-B-1/156/76, dated May 1, 1976.

2. Subs. by U.P. Act 7 of 1992.

3. Subs. by U.P. Act No. 1 of 1977

4. Ins. by U.P. Act, 13 of 1985. (~~ins. by U.P. Act, 13 of 1985.~~)

5. Ins. by U.P. Act No. 5 of 2000.

**2. Definitions.**—In this Act—

- (a) "appointed date", means the twenty-fourth day of November, 1975 ;
- <sup>6</sup>[(a-1) 'Bench' means a Bench of the Tribunal ;
- (a-2) 'Chairman' means the Chairman of the Tribunal ;
- <sup>7</sup>[(a-2A) (Chief Justice) (means the Chief Justice of the High Court]
- (a-3) 'District Judge' means the District Judge within the meaning of the Bengal, Agra and Assam Civil Courts Act, 1887 ;
- <sup>7-a</sup>[(a-3A) "Legal representative" means a person, who in law represents the estate of the deceased person and includes a person in whom the right to receive pensionary, retirement, terminal or other benefits vests;
- (a-4) 'Member' means a Judicial or Administrative member of the Tribunal and includes its Chairman and Vice-Chairman ;]
- <sup>8</sup>[(a-a) "Presenting Officer" includes an Assistant Presenting Officer appointed by the State Government ;]
- <sup>9</sup>[(b) "public servant" means every person in the service or pay of—
- (i) the State Government ; or
- (ii) a local authority not being a Cantonment Board ; or
- (iii)<sup>10</sup> any other corporation owned or controlled by the State Government (including any company as defined in Section 3 of the Companies Act, 1956 in which not less than fifty per cent of paid up share capital is held by the State Government) but does not include—
- (1) a person in the pay or service of any other company ; or
- (2) a member of the All India Services or other Central Services ;]
- <sup>11</sup>[(bb) "service matter" means a matter relating to the conditions of service of a public servant]
- <sup>12</sup> [(c) 'Tribunal' means the Tribunal constituted under Section 3 ;

6. Claimes (a-1) to (a-4) *Inserted* by U.P. Act No. 7 of 1992 (w.e.f. 31.3.1993)

7. *Ins.* by U.P. Act No. 5 of 2000.

7-a. *Ins.* by U.P. Act No. 12 of 2003.

8. *Ins.* by U.P. Act No. 1 of 1977.

9. *Subs.* by U.P. Act No. 1 of 1977.

10. *Subs.* by U.P. Act No. 13 of 1980

11. *Ins.* by U.P. Act No. 5 of 2000.

12. *Subs.* by U.P. Act No. 7 of 1992.(w.e.f. 31.3.1993)

<sup>13</sup>[(d) 'Vice-Chairman' means the Vice-Chairman (Judicial) or Vice-Chairman (Administrative) of the Tribunal.]'

<sup>14</sup>[**3. Constitution of the Tribunal.**—(1) As soon as may be after the commencement of the Uttar Pradesh Public Services (Tribunals) (Amendment) Act, 1992, the State Government shall, by notification, establish a Tribunal to be called the State Public Services Tribunal.

(2) The Tribunal shall consist of a Chairman and in the light of the claims and necessities Vice-Chairman (Judicial), Vice-Chairman (Administration) and Judicial and Administrative Member may be appointed by the State Government.

Provided that no act or proceeding of the Tribunal shall be invalidated merely by reasons of any vacancy in, or any defect in the constitution of Tribunal.

(3) A person shall not be qualified for appointment as Chairman, unless he—

- (a) has been a Judge of a High Court, or
- (b) has, for at least two years held the post of Vice-Chairman, or
- (c) <sup>16</sup>has been a member of the Indian Administrative Service who has held the post of a Secretary to the Government of India or any other post under the Central or the State Government equivalent thereto, and has adequate experience in dispensation of justice.

<sup>17</sup>[(4) A person shall not be qualified for appointment as Vice-Chairman (Judicial) unless he,—

- (a) has held the post of District Judge (a) or any other post equivalent thereto for at least five years ; or
- (b) has, for at least two years, held the post of a Judicial Member.

(4-A) A person shall not be qualified for appointment as Vice-Chairman (Administrative) unless he,—

- (a) has, for at least two years, held the post of an Administrative Member ; or
- (b) has, for at least two years, held the post of Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government

13. Subs. by U.P. Act No. 5 of 2000.

14. Subs. by U.P. Act No. 7 of 1992 (w.e.f., 31.3.1993)

15. Subs. by U.P. Act No. 5 of 2000.

16. Appointment of a member of I.A.S. as Chairman of the Tribunal as per clause (c) of sub-section (3) of Section 3 of the Act is under challenge in W.P. No. 1619 of 1993 dated 19.4.1993 (M.B.) in the Lucknow Bench of the High Court in which interim order of stay has been granted.

17. Subs. by U.P. Act No. 5 of 2000.

of India and has, in the opinion of the State Government, adequate experience in dispensation of Justice.

(5) A person shall not be qualified for appointment as a Judicial Member, unless he has held the post of District Judge, or any other post equivalent thereto.

(6) A person shall not be qualified for appointment as an Administrative Member, unless he has held, or has been eligible to hold, the post of Commissioner of a Division or Joint Secretary to the Government of India and <sup>18</sup>[has in the opinion of the State Government, adequate experience] in dispensation of justice.

(7) The Chairman, Vice-Chairman and every other member shall be appointed by the <sup>19</sup>[State Government after consultation with the Chief Justice for which proposal will be initiated by the State Government:

*Provided* that no person shall assume the Office of Chairman, Vice-Chairman or other member, as the case may be, unless he has resigned or retired from, as the case may be, the Judgeship of the High Court, or the Indian Administrative Service or the Uttar Pradesh Higher Judicial Service or any other service in which he was serving except the service as Vice-Chairman or Member.

(8) The Chairman, Vice-Chairman or other member shall hold office as such for a term of five years from the date on which he enters upon his office but shall be eligible for re-appointment for another term of five years :

*Provided* that no Chairman, Vice-Chairman or other member shall hold office as such after he has attained—

- (a) in the case of Chairman or Vice-Chairman, the age of sixty-five years, and
- (b) in the case of any other member the age of sixty-two years.

(9) The Chairman Vice-Chairman, or any other member may by notice in writing under his hand addressed to the Governor resign his office :

*Provided* that the Chairman, Vice-Chairman or other member shall, unless he is permitted by the Governor to relinquish his offices sooner, continue to hold office until the expiration of three months from the date of receipt of notice or until a person duly appointed as his successor enters upon office or until the expiration of his term of office, whichever is the earliest.

(10) The Chairman, Vice-Chairman or any other member shall not be removed from his office except by an order made by the Governor on the

18. *Subs.* by U.P. Act No. 5 of 2000.

19. *Subs.* by U.P. Act No. 5 of 2000.

ground of proved misbehaviour or incapacity after <sup>20</sup>[an inquiry made by the Chief Justice or such Judge of the High Court as may be nominated by the Chief Justice.] in the prescribed manner, in which such Chairman, Vice-Chairman or other member as the case may be, has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(11) On ceasing to hold office, the Chairman, Vice-Chairman or other member shall be ineligible for further employment under the State Government, or any local or other authority under the control of the State Government, or any corporation or society owned or controlled by the State Government :

*Provided* that, subject to other provisions of this Act, a Vice-Chairman shall be eligible for appointment as Chairman and any other member shall be eligible for appointment as Vice-Chairman or Chairman.

(12) On ceasing to hold office, the Chairman, Vice-Chairman or other member shall not appear, act or plead before the Tribunal on behalf of any person.

(13) The salaries and allowances payable to the Chairman, Vice-Chairman and other members and the other conditions of their service shall be such as may be determined by the State Government from time to time.

(14) Where the Chairman is unable to discharge his functions owing to absence, illness or any other cause, or where any vacancy occurs in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman and where the Vice-Chairman is likewise unable to discharge his function or the office of the Vice-Chairman also is vacant, such other member as the State Government may by special or general order specify, shall discharge the functions of the Chairman until the Chairman resumes his duties or as the case may be, a Chairman appointed in accordance with the provisions of this Act assumes charge of his office.

**21[3-A. Staff of Tribunal.]**—(1) The State Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

(2) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairman.

(3) The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

**22[4. Reference of claim to Tribunal.]**—(1) Subject to the other provisions of this Act, a person who is or has been a public servant and is aggrieved by an order pertaining to a service matter within the jurisdiction of the Tribunal, may make a reference of claim to the Tribunal for the redressal of his grievance.

*Explanation :* For the purpose of this sub-section "order" means an order or omission or in-action of the State Government or a local authority or any other Corporation or company referred to in clause (b) of section 2 or of an officer, committee or other body or agency of the State Government of such

20. Subs. by U.P. Act No. 5 of 2000.

21. Ins. by U.P. Act No. 7 of 1992 (w.e.f., 31.3.1993)

22. Subs. by U.P. Act No. 12 of 2003.

local authority or Corporation or company:

*Provided* that no reference shall, subject to the terms of any contract, be made in respect of a claim arising out of the transfer of a public servant;

*Provided* further that in the case of the death of a public servant, his legal representative, and where there are two or more such representatives, all of them jointly, may make a reference to the Tribunal for payment of salary, allowances, gratuity, provident fund, pension and other pecuniary benefits relating to service due to such public servant.

#### STATEMENT OF OBJECTS AND REASONS

The Uttar Pradesh Public Services (Tribunal) Act, 1976 (U.P. Act no. 17 of 1976) has been enacted to provide for the constitution of Tribunal to adjudicate disputes in respect of matters relating to employment of all public servants of the State. Section 4 of the said Act provides that a person who is or has been a public servant and is aggrieved by an order pertaining to a service matter within the jurisdiction of the Tribunal may make reference of claim to the Tribunal for the redressal of his grievance. The Hon'ble Supreme Court in a special leave appeal required the State Government to clarify the word "order" so as to include "omission" and "inaction" in passing order by the State Government or a local authority or a corporation referred to in clause (b) of section 2 of the said Act in the meaning thereof. The State Law Commission had recommended to amend the said Act to provide for giving right to the legal representatives of a deceased public servant to make a reference of claim to the Tribunal independently with respect to the pecuniary benefits admissible to the deceased. The Bar Association of the State has also demanded for making provision for such right. It has, therefore been decided to amend the said Act to provide for—

(a) giving right to the legal representatives of a deceased public servant to make a reference in the Tribunal for payment of salary allowances, gratuity, provident fund, pension and other pecuniary benefits relating to service due to the deceased public servant :

(b) inclusion of "omission" and 'inaction' in the meaning of "order" referred to in section 4 of the said Act.

2. The Uttar Pradesh Public Services (Tribunal) (Amendment) Bill, 2003 is introduced accordingly.

(2) Every reference under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee in respect of the filing of such reference and by such other fees for the services or execution of processes, as may be prescribed.

(3) On receipt of a reference under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary that the reference is fit for adjudication or trial by it, admit such reference and where the Tribunal is not so satisfied, it shall summarily reject the reference after recording its reasons.

(4) Where a reference has been admitted by the Tribunal under sub-section (3), every proceeding under the relevant service rules or regulation or any contract as to redressal of grievances in relation to the subject-matter of such reference pending immediately before such admission shall abate, and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules, regulations or contract.

(5) The Tribunal shall not ordinarily admit a reference unless it is satisfied that the public servant has availed of all the remedies available to him under the relevant service rules, regulations or contract as to redressal of grievances.

(6) For the purpose of sub-section (5) a public servant shall be deemed to have availed of all the remedies available to him if a final order has been

made by the State Government, an authority or officer thereof or other person competent to pass such order under such rules or regulations or contract rejecting any appeal preferred or representation made by such public servant in connection with the grievance:

*Provided* that where no final order is made by the State Government, authority officer or other person competent to pass such order with regard to the appeal preferred or representation made by such public servant within six months from the date on which such appeal was preferred or representation was made, the public servant may, by a written notice by registered post, require such competent authority to pass the order and if the order is not passed within one month of the service of such notice, the public servant shall be deemed to have availed of all the remedies available to him.

(7) For the purposes of sub-sections (5) and (6) any remedy available to the public servant by way of submission of a memorial to the Governor or to any other functionary shall not be deemed to be one of the remedies, which are available unless the public servant had elected to submit such memorial.

<sup>23</sup>**[4-A. Hearing of reference by the Tribunal.]**—(1) The Chairman may from time to time constitute Benches consisting of a single member or two members, for the disposal of such references of claims and other matters as may be specified by him.

(2) It shall be lawful for the Chairman to nominate himself as a member of any such Bench.

(3) A Bench consisting of two members shall include a Judicial member and an Administrative Member.

*Explanation*—For the purposes of this sub-section the Chairman who has been a High Court Judge or a District Judge or a Vice-Chairman who has been a District Judge shall be deemed to be a Judicial Member and a Chairman or Vice-Chairman who has been the member of the Indian Administrative Service shall be deemed to be an Administrative Member.

(4) The jurisdiction, powers and authority of the Tribunal may be exercised by any such Bench in exercise of such jurisdiction, powers or authority shall be deemed to have been done by the Tribunal.

(5) <sup>24</sup>[(a) A reference of claim against an order pertaining to matter specified in the Schedule shall be heard and finally decided by a Bench consisting of two members:

*Provided* that evidence may be received and proceeding therefor may be conducted by a single member.]

(b) A reference of claim other than that referred to in clause (a) may be heard and finally decided by a Bench consisting of a single member.

(c) The Chairman <sup>25</sup>[may on his own initiative or on the application of a party to a reference of claim] transfer a case from one Bench to another Bench.

23. Subs. by U.P. Act No. 7 of 1992 (w.e.f. 31.3.1993)

24. Subs. by U.P. Act No. 5 of 2000.

25. Subs. by U.P. Act No. 5 of 2000.

(6) Where the members of a Bench consisting of two members are unable to agree, the matter shall be referred to another member nominated by the Chairman and the decision of such other members shall be final and operative.

(7) The Tribunal, its Bench and members shall, for transacting business under this Act sit at Dehradun or at such places as the State Government may direct.

**5. Powers and procedure of the Tribunal.**—(1) (a) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (Act 5 of 1908), or the rules of evidence contained in the Indian Evidence Act, 1872 (Act 1 of 1872), but shall be guided by the principles of natural justice, and subject to the provisions of this section and of any rules made under Section 7, the Tribunal shall have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) :

<sup>26</sup>[*Provided* that where, in respect of the subject-matter of a reference, a competent court has already passed a decree or order or issued a writ or direction, and such decree, order, writ or direction has become final, the principle of *res judicata* shall apply :]

<sup>27</sup>[(b) The provisions of the Limitation Act, 1963 (Act 36 of 1963) shall *mutatis mutandis* apply to reference under Section 4 as if a reference where a suit filed in civil court so, however, that—

- (i) notwithstanding the period of limitation prescribed in the Schedule to the said Act, the period of limitation for such reference shall be one year ;
- (ii) in computing the period of limitation the period beginning with the date on which the public servant makes a representation or prefers an appeal, revision or any other petition (not being a memorial to the Governor), in accordance with the rules or orders regulating his conditions of service, and ending with the date on which such public servant has knowledge of the final order passed on such representation, appeal, revision or petition, as the case may be, shall be excluded :

*Provided* that any reference for which the period of limitation prescribed by the Limitation Act, 1963 is more than one year, a reference under Section 4 may be made within the period prescribed by that Act, or within one year next after the commencement of the Uttar Pradesh Public Services (Tribunals) (Amendment) Act, 1985 whichever period expires earlier :

26. *Ins.* by U.P. Act No. 1 of 1997.

27. *Subs.* by U.P. Act No. 13 of 1985 (*w.e.f.*, 28.1.1985)



*Provided* further that nothing in this clause as substituted by the Uttar Pradesh Public Services (Tribunal) (Amendment) Act, 1985, shall affect any reference made before and pending at the commencement of the said Act.]

(2) The Tribunal shall decide every reference expeditiously and ordinarily, every case shall be decided by it on the basis of perusal of documents and representations, and of <sup>28</sup>[oral or written arguments], if any.

(3) The Tribunal may admit in evidence, in lieu of any original document, a copy thereof attested by a gazetted officer or by a notary.

(4) The Tribunal shall not ordinarily call for or allow to be adduced oral evidence, and may, if necessary, require any party to file an affidavit.

(5) The Tribunal shall, for the purpose of holding any inquiry under this Act, have, subject to the provisions of sub-section (1), the same powers as are vested in Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), while trying a suit, in respect of the following matters—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavits;
- (d) subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872 (Act I of 1872), requisitioning any public record or copy thereof from any office.
- (e) issuing commission for the examination of witness or documents;
- (f) recording a lawful agreement, compromise or satisfaction and making an order in accordance therewith ;
- (g) reviewing its decision ;
- (h) dismissing a reference for dealt or deciding it *ex parte* ;
- (i) setting aside an order of dismissal for default or an order passed by it *ex parte*;
- (j) passing interlocutory orders pending final decision of any reference on such terms, if any, as it thinks fit to impose ;
- (k) any other matter which may be prescribed.

<sup>29</sup>[(5-A) No interim order (whether by way of injunction or stay or in any other manner) shall be passed by the tribunal on or in any proceedings relating to any reference unless—

28. Subs. by U.P. Act No. 13 of 1985 (w.e.f., 28.1.1985)

29. Ins. by U.P. Act No. 1 of 1977

- (a) copies of such reference and application for interim order, along with all documents in support of the plea for such interim order are furnished to the party against whom such petition is filed, and
- (b) at least fourteen day's time is given to such party to file a reply and opportunity is given to it to be heard in the matter :

*Provided* that the Tribunal may dispense with the requirements (a) and (b) and may, for reasons to be recorded, make an interim order, as an exceptional measure, if it is satisfied that it is necessary so to do for preventing any loss to the petitioner which cannot be adequately compensated in money, but any such interim order shall, if it is not vacated earlier, cease to have effect on the expiry of the period of 14 days from the date on which it it made unless the said requirements have been complied with before the expiry of the said period and the Tribunal has continued the operation of that order.

(5-B) Notwithstanding anything in the foregoing sub-sections, the Tribunal shall have no power to make an interim order (whether by way of injunction or stay or in any other manner) in respect of an order made or purporting to be made by an employer for the suspension, dismissal, removal, reduction in rank, termination, compulsory retirement or reversion of a public servant, and every interim order (whether by way of injunction or stay or in any other manner), in respect of such matter, which was made by a Tribunal before the date of commencement of this sub-section and which if in force on that day, shall stand vacated.

<sup>30</sup>[(5-C) Notwithstanding anything in the forgoing sub-sections, the Tribunal shall have no power to make an interim order (whether by way of injunction or stay or in any other manner) in respect of an adverse entry made by an employer against a public servant, and every interim order (whether by way of injunction or stay or in any other manner) in respect of an adverse entry, which was made by a Tribunal before the commencement of the Uttar Pradesh Public Serivces (Tribunal) (Amendment) Act, 2000 and which is in force on the date of such commencement shall stand vacated.]

(6) A declaration made by the Tribunal shall be binding on the claimant and his employer as well as on any other public servant who has, in respect of any claim affecting his interest adversely, been given an opportunity of making a representation against it, and shall have the same effect as a declaration made by a court of law.

<sup>31</sup>(7) The order of the Tribunal finally disposing of a reference shall be executed in the same manner in which any final order of the State Government or other authority or officer or other person competent to pass such order under the relevant service rules as to redressal of grievances in any appeal

30. *Ins.* by U.P. Act No. 5 of 2000.

31. *Subs.* by U.P. Act No. 7 of 1992 (*w.e.f.* 31.3.1993)

preferred or representation made by the claimant in connection with any matter relating to his employment to which the reference relates would have been executed.]

(8) (a) The employer may appoint a public servant or a legal practitioner, to be known as the Presenting Officer, to present its case before the Tribunal.

(b) The public servant may take the assistance of any other public servant to present his case before the Tribunal on his behalf, but may not engage a legal practitioner for the purpose unless either (i) the Presenting Officer appointed by the employer is a legal practitioner, or (ii) the Tribunal, having regard to the circumstances of the case, so permits.

(9) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of <sup>32</sup>[Sections 193, 219] and 228 of the Indian Penal Code (Act XLV of 1860).

(10) A reference or a reply to a reference or an application may be signed either by the appointing authority or by the Presenting Officer or, where the appointing authority is the Governor, by an officer not below the rank of Deputy Secretary authorized by the State Government in this behalf, and in the case of local authority, corporation or company by the Chief Executive Officer or Secretary thereof, as the case may be.

<sup>33</sup>[5-A. Power to punish for contempt.—Without prejudice to the jurisdiction, powers and authority of the High Court under the Contempt of Courts Act, 1971 in respect of contempt of courts subordinate to it, the Tribunal shall have and exercise, jurisdiction, powers and authority in respect of contempt of itself as the High Court has, and may exercise, in respect of contempt of itself and for this purpose the provisions of the Contempt of Court Act, 1971 shall, *matatis mutandis*, apply subject to the following modifications, namely—

- (a) reference therein to High Court, its Chief Justice and other Judges shall be construed as reference to the Tribunal its Chairman and other members respectively ;
- (b) reference to Advocate-General in Section 15 of the said Act shall be construed as reference to <sup>34</sup>[the public prosecutor appointed by the State Government under sub-section (1) of Section 24 of the Code of Criminal Procedure, 1973 or such other law officer] as the State Government may by notification, specify in that behalf;
- (c) in Section 19 of the said Act,—
  - (i) for sub-section (1) the following sub-section shall be substituted, namely :

32. Subs. by U.P. Act No. 5 of 2000.

33. Ins. by U.P. Act No. 7 of 1992.

34. Subs. by U.P. Act No. 5 of 2000.

"(1) An appeal shall lie as of right from any order or decision of the Tribunal in the exercise of its jurisdiction to punish for contempt to the High Court" ;

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

"(4) (An appeal under sub-section (1) shall be filed within sixty days from the date of the order appealed against.)"

**6. Bar of suits.**—(1) No suit shall lie against the State Government or any local authority or any statutory corporation or company for any relief in respect of any matter relating to employment at the instance of any person who is or has been a public servant, including a person specified in <sup>35</sup>[ clauses (a) to (g)] of sub-section (4) of Section 1.

(2) All suits for the like relief, and all appeals, revisions, applications for review and other incidental or ancillary proceedings (including all proceedings under Order XXXIX of the first schedule to the Code of Civil Procedure, 1908) (Act V of 1908), arising out of such suits, and all applications for permission to sue or appeal as pauper for the like relief, pending before any court subordinate to the High Court and all, revisions (arising out of interlocutory orders) pending before the High Court on the date immediately preceding the appointed date shall abate, and their records shall be transferred [to the Tribunal]<sup>36</sup> and thereupon the Tribunal shall decide the cases in the same manner as if they were claims referred to it under Section 4:

*Provided* that the Tribunal shall, subject to the provisions of Section 5, recommence the proceedings from the stage at which the case abated as aforesaid and deal with any pleadings presented or any oral or documentary evidence produced in the court as if the same were presented or produced before the Tribunal.

(3) All appeals pending before the High Court on the date immediately preceding the appointed date arising out of such suits shall continue to be heard and disposed of by that court as heretofore as if this Act has not come into force :

*Provided* that if the High Court considers it necessary to remand or refer back the case under Rule 23 of Rule 25 of Order XXL of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), the order of remand or reference shall be directed [to the Tribunal]<sup>36</sup> instead of to the subordinate court concerned and the Tribunal shall thereupon decide the case or issue, subject to the directions of High Court, in the same manner as if it were a claim referred to it under Section 4.

<sup>37</sup>[**6-A. Members and Staff of the Tribunal to be public servants.**— The Chairman, Vice-Chairman, Members, Officers and other employees of

35. *Subs.* by U.P. Act No. 5 of 2000.

36. *Subs.* by U.P. Act No. 7 of 1992 (*w.e.f.*, 31.3.1993)

37. *Ins.* by U.P. Act No. 5 of 2000.

the Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

**6-B. Protection of action taken in good faith.**—No suit, prosecution or other legal proceedings shall lie against the Chairman, Vice-Chairman, members or any other person for anything which is in good faith done or intended to be done, in pursuance of the provisions of this Act or the rules made thereunder.

**6-C. Members to be Judges.**—The Chairman, Vice-Chairman and members shall be deemed to be the Judges for the purposes of the Judges (Protection) Act, 1985 and the Judicial Officers Protection Act, 1850.]

**7. Power to make Rules.**—(1) The State Government may by notification make rules for carrying out the purposes of this Act.

<sup>38</sup>[(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :

- (a) the powers and procedure of the Tribunal ;
- (b) the constitution and distribution of business among the Benches;

<sup>39</sup>[(c) the form in which a reference of claim may be made the document and other evidence by which such reference shall be accompanied and the fees payable in respect of the filing of such reference or for the execution or service of processes.]

- (d) the salaries and allowances payable to, and other terms and conditions of service of the Chairman, Vice-Chairman, members, officers and other employees of the Tribunal ;
- (e) the financial and administrative powers of the Chairman ;
- (f) any other matter for which insufficient provision exists in this Act and the State Government considers provision in that behalf necessary or expedient.

(3) The power to make rules under clause (d) of sub-section (2) shall include the power to make such rules or any of them retrospectively from a date not earlier than the date of commencement of the Uttar Pradesh Public Services (Tribunal) (Amendment) Act, 1992, but no such retrospective effect shall be given to any such rule so to prejudicially affect the interest of any person to whom such rules may be applicable].

**8. Repeal, savings and transitory provision.**—(1) The Uttar Pradesh Public Services (Tribunals) Ordinance 1976 (U.P. Ordinance No. 8 of 1976), is hereby *repealed*.

38. Subs. by U.P. Act No. 7 of 1992 (w.e.f., 31.3.1993)

39. Subs. by U.P. Act No. 5 of 2000.

(2) Notwithstanding such repeal or the repeal of the Uttat Pradesh Public Services (Tribunals) Ordinance, 1975 by the Ordinance mentioned in sub-section (1) anything done or any action taken under the said Ordinances shall be deemed to have been done or taken under this Act as if this Act was in force at all material times.

(3) In relation to orders mentioned in the proviso to clause (b) of sub-section (1) of Section 5 of this Act and applications referred to in sub-section (2) of Section 6 of this Act which were not mentioned in the corresponding provisions of the said Ordinance of 1975 the references to the appointed date shall be construed as references to 16, 1976.

#### <sup>40</sup>[SCHEDULE]

[See Section

n 4-A (5) (a)]

Matters to be heard and finally decided by a Bench consisting of two members.

1. All reference of claims against an order pertaining to,—

- (a) promotion, seniority, date of birth or date of superannuation of a public servant ;
- (b) regularisation in a service referred to in clause (b) of Section 2 ;
- (c) dismissal, removal, reversion or reduction in rank, permanent stoppage of increment, break in service, compulsory retirement, suspension, termination or resignation of a public servant ;
- (d) withholding or withdrawing pension, wholly or partly recovery from pension and counting of period for pension, of a retired public servant.

2. All contempt matters.

3. Admission of references of claims against orders pertaining to the aforesaid matters.