

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/215/2016. 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 XVIII of 2016]

**AN
ACT**

to provide law for registration, regulation and welfare of service associations

Whereas, it is expedient to make law for the registration, regulation and welfare of service association of Employees and to safeguard the best interests of the public at large and matters incidental and ancillary thereto;

**Chapter-I
Preliminary**

1. **Short Title, Extent, and Commencement.** - (1) This Act may be called the Azad Jammu and Kashmir Employees Service Associations (Registration and Regulation) Act, 2016.
(2) It shall extend to the whole of Azad Jammu and Kashmir. It shall apply to all persons in Service of Azad Jammu and Kashmir including civil servants and service of corporations owned or controlled by the Government but shall not include members of any disciplined force including police.
(3) It shall come into force at once and shall be deemed to have taken effect from 17-10-2015.
2. **Definitions.**- In this Act unless subject or context otherwise requires, following expressions shall have the meaning as hereby respectively assigned to them:
 - (i) ‘Act’ means the Azad Jammu & Kashmir Employees Service Associations (Registration and Regulation) Act, 2015;
 - (ii) ‘**Aggrieved Person**’ means any person or association feeling itself to be effected from a decision or order made under this Act;
 - (iii) ‘**Appellate Tribunal**’ means Appellate Tribunal constituted under Section 13 of the Act.
 - (iv) “**Body of Employees**” means a body of employees applying for registration as Service Association;
 - (v) ‘**Constitution**’ means the Constitution of Service Association;
 - (vi) ‘**Court**’ means the court of Magistrate First Class;
 - (vii) ‘**Department**’ includes an office, department, directorate or other autonomous or semi-autonomous body controlled by the Government;
 - (viii) ‘**Employee or Employees**’ means person or persons employed in the Service of Azad Jammu and Kashmir and includes Civil Servants and persons in service of corporations

owned or controlled by the Government including autonomous or semi-autonomous bodies other than ad-hoc and contract employees and the members of any disciplined force including police;

- (ix) '**Government**' means Azad Government of the State of Jammu and Kashmir;
- (x) '**Misconduct**' means conduct prejudicial to good order or service discipline or contrary to the Government Servants (Conduct) Rules as applicable to the Azad Jammu and Kashmir or conduct unbecoming of an officer and gentleman and includes any act on the part of a civil servant to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Governments Officers in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of services of a civil servant and also includes strike, lockout or go slow;
- (xi) '**Office Bearers**' means office bearers of Service Association duly elected;
- (xii) '**Prescribed**' means prescribed by the rules;
- (xiii) '**Registrar**' means Registrar of Service Association appointed under Section 4 of the Act;
- (xiv) '**Rules**' means rules made under the Act; and
- (xv) '**Service Association**' means an association duly registered under Section 9 of the Act;

(2) The terms and expressions not defined hereinabove shall have the meaning as assigned to them under AJ&K Government Rules of Business, 1985.

Chapter-II

Registration of Service Association

3. **Service Association.**- (1) Subject to provisions of the Act or any other law for time being in force, all Employees may form and join any Service Association relevant to their class of service or cadre, subject to the Constitution or rules of Service Association:

Provided that an Employee shall not be member of more than one Service Association:

Provided further that members of any disciplined force or police shall not have right to make or join Service Association.

(2) The members of the Service Association and/or Body of the Employees and their association shall respect and abide by all laws of Azad Jammu and Kashmir.

4. **Registrar Service Association.**- (1) The Government shall appoint or designate an officer of grade 19 or above as Registrar of Service Association for the purpose of this Act who shall perform functions assigned to him under the Act or rules made thereunder.

(2) The Government may appoint or designate one or more Additional, Deputy or Assistant Registrars, as deemed necessary by keeping in view the work load.

5. **Powers and functions of Registrar.**- The functions and powers of the Registrar shall be,-

- (a) to entertain/process application(s) for registration of Body of Employees as a Service Association under the Act;
- (b) to determine as to which one of the Body of Employees is entitled to be certified in relation to that department or group or cadre where there are more than one applications for a same group or cadre.
- (c) to register the Body of Employees as Service Association under the Act and maintain a register of that purpose under Section 8; and
- (d) to lodge, or authorize any person to lodge, complaints with the Appellate Tribunal for action, including prosecution, against Service Associations or any of their member or Office Bearer, Employees or other persons for any alleged offence or any unfair practice or violation of any provision of the Act or for expending the funds of a Service Association in contravention of the provisions of its Constitution.

6. **Application for registration.-** (1) A Body of Employees may, with resolution and signature of at least one third of total Employees of any service or group, apply for registration under the Act.

(2) An application for registration shall be made to the Registrar and shall be accompanied by:-

- (a) A statement showing,-
 - (i) the name of the proposed service association and address of its head office;
 - (ii) statement of total membership;
 - (iii) the name of service, class, cadre group etc., for which the Service Association is to be made and total number of such service;
 - (iv) one original and two attested copies of the proposed service association's Constitution in which the code of conduct is expressly spelled out; and
 - (v) any other document sought by Registrar.
- (b) A copy of resolution by the members of the Body of Employees adopting such Constitution bearing signatures of the Chairman and members of the meeting.
- (c) Original resolution by the members of the Body of Employees authorizing its President and the General Secretary to apply for its registration.

7. **Requirements of Constitution for registration.-** (1) A Body of Employees shall not be entitled for registration under the Act unless the Constitution thereof provides for the following matters, namely,-

- (a) the name and address of the proposed Service Association;
- (b) the name and details of department or office or service group/ cadre for which the Service Association is to be made;
- (b) the objects for which the Service Association has been made;
- (c) the purpose for which the funds of the Service Association shall be applicable;

- (d) manners of election of Service Association;
- (e) mode of membership;
- (d) the number of persons forming the executive committee which shall not exceed the prescribed limit and shall include the Employees of the service actually engaged or employed in the service, cadre or the officer for which the Service Association has been formed;
- (e) the conditions under which a member shall be entitled to any benefit assured by the Constitution and under which any fine or forfeiture may be imposed on him;
- (f) the maintenance of a list of the members of the Service Association and of adequate facilities for the inspection thereof by the office-bearers and members of the Service Association;
- (g) the manner in which the Constitution shall be amended, varied or rescinded;
- (h) the custody of the funds of the Service Association, its annual audit, the manner of audit and adequate facilities for inspection of the account books by the Office Bearers and members of Association;
- (i) the manner in which the Service Association may be dissolved;
- (j) the manner of election of Office Bearers by the general body of the Service Association and the term not exceeding three years, for which an office-bearer may occupy office upon his election or re-election through secret ballot;
- (k) the procedure for expressing vote of confidence in any Office Bearer of the Service Association; and
- (l) the meetings of the executive and of the general body of the Service Association which shall meet at least once in every four months while general body at least once in every year.

(2) Without prejudice to the provisions of sub-section (1), a Body of Employees shall not be entitled to registration unless, under its Constitution, objectives of the Service Association are limited to welfare activities for Employees and it clearly prohibits the Service Association to declare or instigate strike, lock-outs or go slow.

8. Registered Service Association to maintain register, etc.,- Every registered Service Association shall maintain a record in such form as may be prescribed,-

- (a) register of members showing particulars of subscriptions paid by each member;
- (b) accounts book showing receipt and expenditure;
- (c) minutes book for recording the proceedings of meetings; and
- (d) any other record as may be prescribed.

9. Registration.-(1) The Registrar, after having exercised due diligence and verification of facts, and on being satisfied that a Body of Employees has complied with all the requirements of the

Act, may register it as Service Association in a prescribed register and issue a registration certificate in the prescribed form.

(2) In case the application for registration is found by the Registrar to be deficient in any material respect, he shall communicate all his objections in writing to the Body of Employees within a period of thirty days from the receipt of this application and Body of Employees shall reply thereto.

(3) When the objections raised by the Registrar have been addressed/removed, the Registrar shall register the Body of Employees as Service Association as provided in sub-section (1) within reasonable time after detailed scrutiny.

(4) In case the objection raised under sub-section (2) are not satisfactorily met out or are not replied to within reasonable time, the Registrar shall reject the application.

(5) Where the application for registration is rejected or accepted, as the case may be, the Aggrieved Person may prefer an appeal to the Appellate Tribunal that may, for reasons to be recorded, by an order, direct the Registrar to register the Body of Employees as Service Association and to issue a registration certificate or may dismiss the appeal.

(6) Notwithstanding anything contained in any other provision of the Act, every alteration made in the Constitution of a Service Association and every change of its Office Bearer shall be notified by registered post to the Registrar by the Service Association within fifteen days of such alteration or change.

(7) The Registrar may refuse to register any alternation or change referred to in sub-section (6), if it is in contravention of any of the provisions of this Act or it is in violation of the Constitution.

(8) The registrar shall refuse to register Body of Employees where a Service Association has already been registered for that group of service or cadre.

(8) In case of a dispute upon incorporation of proposed change in the Constitution, any Office Bearer or member of the Service Association, if feels itself aggrieved by order of the Registrar made under sub-section (7), may prefer an appeal to the Appellate Tribunal which shall pass an order either directing the Registrar to register such change or may, for reasons to be recorded in writing, direct the Registrar to hold fresh elections of the Service Association under his supervision.

10. Cancellation of Certificate of Registration.- (1) The certificate of registration of a Service Association shall be cancelled if the Appellate Tribunal so directs upon a complaint in writing made by the Registrar that the Service Association has:-

- (i) contravened or has been registered in contravention of, any of the provisions of the Act or the rules made thereunder;
- (ii) contravened any of the provisions of its Constitution; or
- (iii) made in its Constitution any provision which is in consistent with the Act or the rules made there under.

(2) Where any person, who is disqualified from being elected as or from being an Office Bearer of a Service Association, is elected or continuous to be as an Office Bearer of a Service Association, the registration of that Service Association shall be cancelled if the Appellate Tribunal, upon a complaint in writing made in this behalf by the Registrar, so directs.

(3) The registration of a Service Association shall be cancelled by the Registrar, by giving reasons for such cancellation in writing, if, after holding an inquiry he finds that any Service Association has dissolved itself or has ceased to exist.

11. **Appeal against cancellation of registration.**- Any Service Association aggrieved by a decision given by the Registrar under sub-section (3) of Section 10 may prefer an appeal within 30 days to the Appellate Tribunal.

12. **Returns.** (1) There shall be sent annually to the Registrar, on or before such dates as may be prescribed, a general statement audited in the prescribed manner of all receipts and expenditure of the assets and liabilities of the Service Association, existing on such 31st day of December in each year, as may be prescribed:

(2) Together with the general statement referred to in sub-section (1), a statement shall be sent to the Registrar showing all changes about Office Bearers of the Service Association, made during the year to which the general statement refers, along with a statement of the total paid membership and a copy of the Constitution corrected up to the date.

(3) A copy of every alteration made in the Constitution and a resolution of the general body having the effect of a provision of the Constitution shall be sent to the Registrar within fifteen days of the making of the alteration or adoption of the resolution.

13. **Appellate Tribunal.**- There shall be an Appellate Tribunal headed by Additional Chief Secretary (General) and comprising Secretary Services & General Administration Department and Secretary Law to hear and dispose of appeals filed against the order of the Registrar:

Provided that the Government may appoint additional members as may be deemed necessary.

Chapter-III General Provisions

14. **Resolution for demand.**- Where any Service Association passes a resolution with two third majority of its members regarding any demand from the Government, it shall be submitted to department concerned for due consideration.

15. **Action upon resolutions.**- On receipt of resolution, the department concerned shall examine the demands made through the resolution for seeking redressal, remedy etc., with due diligence, and in consultation with other relevant department, shall form its recommendations to be presented to the Government or any authority concerned for consideration and appropriate for decisions. The decision made with respect to demands shall be either notified or communicated to the Service Association.

16. **Right of Appeal.**- (1) If the Service Association is not satisfied with the recommendation of the department concerned, it may prefer an appeal to Appellate Tribunal within thirty days:

Provided that if demands of the Service Association involves financial implications, the Secretary Finance Department shall also be ex-officio member of the Appellate Tribunal.

(2) In case any Service Association feels aggrieved of any communication, it may prefer representation or review, as the case may be, to the Government with grounds and reasons to justify making representation review of the communication.

(3) The Government shall make over the case for proper hearing to a panel consisting of the Chief Secretary, Secretary Finance and Secretary of the department concerned to hear and make recommendations to the Government.

17. **Prohibition of Strike, Lockout and go slow.**- (1) No Employee, Body of Employees or Service Association shall declare or go on strike, lockout or go slow or absent himself from and any of such action shall be deemed to be Misconduct and shall be liable to disciplinary action under the prevailing law.

(2) An Employee who continues strike and does not attend office or resume duty on account of strike, lockout or go slow shall not be entitled to salary or any kind of remuneration during his absence as such in addition to any disciplinary action which may be taken against him.

18. **Protection of certain persons.**- (1) No person refusing to take part or continue to take part in any strike, lockout or go slow shall, by reason of such refusal, be subject to expulsion from any Service Association or any fine or penalty or to the deprivation of any right or benefit which he or his legal representatives would otherwise has been entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or disadvantage as compared with others members of the Service Association.

(2) In any proceeding referred to in sub-section (1) the Aggrieved Person may prefer an appeal to the Appellate Tribunal. The Appellate Tribunal which may apart from reversing order of expulsion, order to the Service Association to pay such sum of money as a compensation or damages as the Appellate Tribunal thinks just and appropriate.

19. **Offences under this Act.**- (1) No Service Association or Office-Bearers, or any other person shall:-

- (a) persuade an Employee to join or refrain from joining a Service Association during working hours; or
- (b) intimidate any person to become, or refrain from becoming, or to continue to be or to cease to be a member or Office-Bearer of a Service Association; or
- (c) include any person to refrain from becoming, or cease to be a member or Office-Bearer of a Service Association by intimidating or conferring or offering to confer any advantage on or by procuring or offering to confer any advancing on or by

procuring or offering to procure any advantage for such person or any other person; or

- (d) compel or attempt to compel the head of department or any other controller office to accept any demand by using intimidation, coercion, pressure, threat, confinement or ouster from a place, dispossession, assault, physical injury, disconnect of telephone, water or power facilities or by such other methods; or
- (e) compel or attempt to compel any member of a body, bipartite or tripartite or of any composition, relating to the functioning of the office or is in place for the benefit of Employees, to accept any demand by using intimidation, coercion, pressure, threat, confinement or ouster from a place, dispossession, assault, physical injury or by such other methods; or
- (f) commence, continue, instigate or incite others to take part in or expend or supply money or otherwise act in furtherance or support of a strike, lockout or go slow; or
- (g) carry any arms or weapons within the premises of Department.

(2) Any action under sub-section (1) shall be an offence under the Act.

20. **Cognizance and Summary trial.**-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence under the Act shall be cognizable and non-bailable; and

- (a) no Magistrate other than a Magistrate of the first class shall try an offence under this Act;
- (b) a Magistrate trying an offence under this Act shall have powers to try such offences summarily in accordance with the procedure laid down for summary trial in the said Code.

21. **Appeal.**- An order passed by the Magistrate of first class under the Act shall be appealable before the Sessions judge within thirty days.

22. **Existing Association etc.**- On enforcement of the Act, any of the Employee association shall exist unless it secures registration in the manner prescribed under the Act:

Provided that associations which have already been registered under prevailing law shall continue to exist for a period of one month in order to get registration under the Act.

23. **Rules.**- The Government may, by notification in the official gazette make rules for carrying out the purposes of the Act.

Chapter-IV

Penalties

24. **Penalty for false statement, etc.**- Whoever willfully makes or cause to be made in any application or other document submitted under the Act or the rules made there under, any statement which he knows or has reasons to believe to be false, or willfully neglects or fails to

maintain or furnish any list, document or information which he is required to maintain or furnish under the Act or the rules, shall be punishable with fine which may extend to fifty thousand rupees.

25. Penalty for embezzlement or misappropriation of funds.- (1) Any Office Bearer or any other employee of a Service Association, guilty of embezzlement or misappropriation of Service Association funds shall be liable to a fine double the amount found by the Court to have been embezzled or misappropriated.

(2) Upon realization of the amount of fine referred to in sub-section (1), it may be reimbursed by the Court to the Service Association concerned.

26. Penalty for other offences.- Whoever contravenes, or fails to comply with any of the provisions of the Act shall, if no other penalty is provided by the Act for such contravention or failure, be punished with fine which may extend to fifty thousand rupees.

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(Ch. Muhammad Nawaz)
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