



GOVERNMENT OF GUJARAT
LEGAL DEPARTMENT

Gujarat Act No. 9 of 1982

The Gujarat Affiliated Colleges Services
Tribunal Act, 1982



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1982

THE GUJARAT AFFILIATED COLLEGES SERVICES TRIBUNAL ACT, 1982.

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GUJARAT ACT NO. 9 OF 1982.*1

[THE GUJARAT AFFILIATED COLLEGES SERVICES TRIBUNAL ACT, 1982.]

[23rd February, 1982].

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, other academic and non-teaching staff of affiliated colleges 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-third Year of the Republic of India as follows :—

PART—I.

PRELIMINARY.

1. (1) This Act may be called the Gujarat Affiliated Colleges Services Tribunal Act, 1982.

Short title,
extent and
commen-
cement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall be deemed to have come into force on the 9th December, 1981.

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

Definitions.

(a) "affiliated college" means a college affiliated to a university under a relevant University Act ;

(b) "appointed day" means the date on which this Act is deemed to have come into force under sub-section (3) of section 1 ;

(c) "college" means an affiliated college ;

(d) "college employee" means any member of the teaching, other academic and non-teaching staff of a college (whether confirmed or temporary or on probation) in the service of such college 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 declared surplus on account of the introduction of the system of higher secondary education or whose services are otherwise terminated ;

(e) "manager of college" means a person or body of persons in charge or control of the management of a college and recognised as such by the University to which such college is affiliated ;

1 For Statement of objects and Reasons, see Gujarat Government Gazette, Extra ordinary, Part V, dated the 13th January, 1982, pages 10-7 to 10-9.

* This Act was assented to by the president on the 22nd February, 1982.

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

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

(h) "relevant University" in relation to a college means the University to which such college is affiliated ;

(i) "relevant University Act" means the Gujarat University Act, 1949, the Sardar Patel University Act, 1955, the South Gujarat University Act, 1965, the Saurashtra University Act, 1965, or, as the case may be, the Bhavnagar University Act, 1978;

(j) "Tribunal" means the Gujarat Affiliated Colleges Services Tribunal constituted under section 3.

Bom.
59 of
1949.
Bom.
XL of
1965.
Guj. 58
of
1965.
Guj.
39 of
1965.
Guj.
26 of
1978.

PART - II.

TRIBUNAL.

Constitution
of Gujarat
Affiliated
Colleges
Services
Tribunal.

3. (1) There shall be established by the State Government by a notified order a Tribunal to be called the Gujarat Affiliated Colleges 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 286 of the Constitution.

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

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.

The power
of the State
Government
to terminate
the appoint-
ment before
the expiry
of term.

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,—

(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.

Head
quarters
of
Tribunal.

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

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

7. (1) The Tribunal shall have jurisdiction to entertain and decide disputes referred to in section 8, all suits and proceedings transferred to it under 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 a college employee is decided by the Tribunal to be wrong, unlawful or otherwise unjustified, the Tribunal may pass an order directing that the college 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 college and the manager of the college 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 college and, any college employee, which is connected with the conditions of service of such college employee, the manager or, as the case may be, the college employee may make an application to the Tribunal for the decision of the dispute.

Dispute to be decided by Tribunal.

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 there under, 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.

Power of Tribunal to make regulations.

v of 1908.

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:—

Tribunal to have powers of court.

(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.

36 of 1963.

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

Proceedings before the 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.

45 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 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 of a college and any college employee relating to disputes connected with the conditions of service of such college 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 has not been enacted.

PART III.

PROCEDURE FOR IMPOSITION OF PENALTY ON COLLEGE EMPLOYEES.

Dismissal, removal or reduction in rank of college employees.

14. (1) No college employee shall be dismissed or removed or reduced in rank nor shall his service be otherwise terminated by the manager of a college 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 those charges, and

(b) the action proposed against him is approved by the Vice-Chancellor of the relevant University :

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

(2) The Vice-Chancellor shall communicate to the manager of the college 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 Vice-Chancellor of such proposal.

(3) Where the Vice-Chancellor 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 Vice-Chancellor.

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

(5) Where a college employee is suspended by the manager of a college 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 of college to the Vice-Chancellor of the relevant University within a period of seven days after such suspension and such suspension shall be subject to ratification by the Vice-Chancellor within a period of forty five days from the date of receipt of the communication in this behalf by the Vice-Chancellor and if such ratification is not communicated to the manager of the college by the Vice-Chancellor within such period, the suspension of the college employee shall cease to have effect on the expiry of such period :

Provided that the college 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 Vice-Chancellor 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 Vice-Chancellor:

15. If a college employee desires to submit his resignation, he shall tender the same in person to the Registrar of the relevant University and a resignation by a college employee shall not be accepted by the manager of a college unless it is so tendered and forwarded to the manager by the Registrar duly endorsed. The acceptance of any resignation tendered in contravention of this section shall be ineffective.

Resignation
of college
employee.

PART-IV.

MISCELLANEOUS.

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

Certain
contract
etc. to
be
null
and
void.

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

shall, to the extent that it takes away any right conferred on such college 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.

Power of
Government
to make
rules.

(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 a college 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 rule conferred by this section shall be subject to the conditions 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 modifications 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.

Savings:

18. (1) Nothing contained in clause (b) of sub-section (1) and sub-sections (2), (3), (5) and (6) of section 11 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 college owned by Government.

Amendment
of Bom.
L of 1949.

19. The Gujarat University Act, 1949 shall stand amended to the extent and in the manner set forth in column (2) of the Schedule with effect on and from the date on which the Tribunal is constituted under section 3.

Bom.
L of
1949.

Repeal
and saving.

20. (1) The Gujarat Affiliated Colleges Services Tribunal Ordinance, 1981 is hereby repealed.

Guj.
Ord.
10 of
1981.

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

SCHEDULE

(See section 19).

Title of the Act 1	Extent and manner of amendment 2
The Gujarat University Act, (1) 1949 (Bom. 50 of 1949).	In section 51A, in sub-section (1), the words "an affiliated college and" shall be deleted.

1

2

(2) In section 52A,—

- (1) in sub-section (1), the words “an affiliated college or” shall be deleted;
 - (2) in the marginal note, the words, “affiliated college or” shall be deleted.
-