

**CHAPTER 3:06**

**PUBLIC SERVICE APPELLATE TRIBUNAL ACT**

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SCHEDULE - Appealable Matters

CHAPTER 3:06

PUBLIC SERVICE APPELLATE TRIBUNAL ACT

17 of 1984      **AN ACT to make provision for the establishment of a Public Service Appellate Tribunal and for matters connected therewith or incidental thereto.**

[14TH NOVEMBER, 1984]

Short title.      **1.** This Act may be cited as the Public Service Appellate Tribunal Act.

Interpretation.      **2.** In this Act—

(a) “appointment by promotion”, in relation to any public officer, includes appointment by way of secondment, transfer or otherwise, of that officer either substantively to, or to act in, any office higher than the office or post that officer was holding substantively immediately before such appointment;

(b) “article” means an article of the Constitution;

(c) “the bench of the Tribunal”, in relation to any appeal, or interlocutory proceedings in that appeal, means a bench of the Tribunal constituted as provided in section 12(1) and having jurisdiction to hear that appeal;

(d) “chairman” means the chairman of the Tribunal;

(e) “member” means a member of the Tribunal and includes the chairman;

(f) “Minister” means the Minister charged with responsibility for administrative matters relating to the Tribunal or, if there is no such Minister, the Minister charged with responsibility for public service personnel administration;

(g) “public office” means an office of emolument in the public service, other than an office within the jurisdiction of the Judicial Service Commission or the Teaching Service Commission or the Office of the Commissioner of Police or any other office in the Police Force;

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- (h) “public officer” means the holder of any public office and includes any person appointed to act in any such office;
- (i) “registrar” means registrar of the Tribunal;
- (j) “Service Commission” means the Public Service Commission;
- (k) “Tribunal” means the Public Service Appellate Tribunal established by section 3 and includes a bench of the Tribunal.

3. (1) There is hereby established a tribunal to be known as the Public Service Appellate Tribunal consisting of a chairman having the qualifications, and appointed in the manner, specified by article 215A(2) of the Constitution and—

Establishment of the Public Service Appellate Tribunal.

- (a) a member to be appointed by the President by instrument in writing from among persons appearing to him to be qualified as having had experience of, and shown capacity in, matters relating to administration, personnel management or public affairs;
- (b) one person to represent each of such organisations (being organisations as appear to the President to represent public officers or classes or sections of public officers) as may be specified by the President by notification in the *Gazette* for the purposes of this subsection, to be appointed by the President by instrument in writing on the nomination of the organisation which the member is appointed to represent.

(2) The names of the members of the Tribunal as first constituted and every change in the membership thereof shall be published in the *Gazette*.

4. (1) Subject to the provisions of article 215A (8) of the Constitution, the office of a member shall become vacant at the expiration of three years from the date of his appointment or at such earlier time as may be specified by the instrument by which he was appointed.

Terms and conditions of appointment of the members of the Tribunal.

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(2) The provisions of subsection (1) shall be without prejudice to the power of the President to revoke the appointment of a member of the Tribunal appointed under section 3(1) (b) on a request being made for such revocation to the President by the organisation which he was appointed to represent.

(3) The other terms and conditions of the appointment of the members of the Tribunal shall be such as may be prescribed by the Minister by regulations.

Headquarters  
of the  
Tribunal.

**5.** The headquarters of the Tribunal shall be at Georgetown:

Provided that the Tribunal may hold its sittings at any other place in Guyana.

Registrar and  
other staff of  
the Tribunal.

**6.** (1) There shall be a registrar of the Tribunal.

(2) The registrar shall be the chief executive officer of the Tribunal.

(3) The Minister shall provide the Tribunal with such other staff as it may require for the exercise of its functions.

Oath of office  
by members  
and registrar.

**7.** Every member and the registrar shall before entering on the duties of his office take before the President an oath of office in such form as may be prescribed by the Minister by regulations.

Administration  
of oaths by  
members or  
registrar.

**8.** Every member and the registrar shall have power to administer oaths and take affidavits, and to take solemn affirmations or declarations in lieu of oaths.

Appeals to the  
Tribunal.

**9.** (1) Subject to, and save as otherwise provided in, the other sections of this Act, an appeal shall lie to the Tribunal from any decision of the Service Commission in respect of any matter mentioned in the Schedule, in the form in which the Schedule is in force on the date of the decision.

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(2) An appeal under subsection (1) may be brought to the Tribunal by any person aggrieved by any decision referred to therein within a period of ninety days computed from—

- (a) the date of the receipt of the decision by him; or
- (b) the date on which he otherwise came to know of the decision,

whichever date is earlier:

Provided that the bench of the Tribunal may entertain an appeal after the expiry of the aforesaid period of ninety days if it is satisfied that there was reasonable cause for the delay.

(3) No appeal shall lie from any decision referred to in subsection (1) made before the commencement of this Act.

(4) Every appeal shall be in such form and accompanied by such documents and by such fees, as may be prescribed by the Minister by regulations.

**10.** (1) All persons likely to be directly affected by the outcome of the appeal shall be made parties to the appeal by the appellant:

Parties to the appeal.

Provided that no person shall without his consent be made a party to the appeal as appellant.

(2) The bench of the Tribunal may, at any stage of the proceedings in an appeal, either upon or without the application of any party, and on such terms as appear to the bench to be just, order that the name of any party improperly joined be struck out and that the name of any party who ought to have been joined or whose presence before the bench may be necessary in order to enable the bench effectually and completely to adjudicate upon and settle all questions involved in the appeal, be added.

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Notice of appeal to the respondent.

**11.** (1) Every appeal shall, as soon as may be practicable after it is brought, be placed by the registrar before a bench of the Tribunal constituted as provided in section 12 (1) for preliminary hearing and notice of the date of such hearing shall be issued to the appellant.

(2) If the bench of the Tribunal after hearing the appellant is satisfied that—

(a) the appeal is brought within the period specified in section 9 (2) or, if the appeal is brought after the expiry of that period, there was reasonable cause for the delay;

(b) the appellant has complied with the provisions of section 9(3) relating to form of the appeal, production of documents and payments of fees, if any; and

(c) the appeal is not frivolous or vexatious,

it may order that notice be issued to the respondent or, if there are more respondents than one, to all the respondents, to show cause why the appeal should not be allowed, and in other cases it shall dismiss the appeal:

Provided that in a case where the bench of the Tribunal is satisfied of the matters referred to in paragraphs (a) and (c), but is of the opinion that the appellant has not complied with the provisions of section 9(3) relating to form of the appeal, production of documents and payment of fees in bringing the appeal, the bench of the Tribunal may if it considers the same to be necessary in the interests of justice, allow the appellant reasonable time to comply with the provisions of section 9(3) and shall dismiss the appeal under this subsection only if the appellant fails or refuses to cure the defect within the time so allowed.

Hearing of appeal.

**12.** (1) Every appeal shall be heard by a bench of the Tribunal consisting of—

(a) the chairman;

(b) the member referred to in section 3(1) (a);

(c) from among the members referred to in section 3(1)

(b), the member nominated by that organisation which has been authorised by the appellant to represent him in matters

relating to his employment or, if there is no such member, one of the aforesaid members to be nominated by the chairman.

(2) Notice of every hearing of the appeal, other than a hearing under section 11, and of the date on which the decision of the bench of the Tribunal is to be announced shall be given to all the parties to the appeal.

(3) A party to the appeal may, unless directed by the bench of the Tribunal for reasons to be recorded in writing to appear personally, appear either personally or through any other person, duly authorised by him in that behalf, or an attorney-at-law.

(4) The Service Commission may, if it so desires, be represented at the hearing by the bench of the Tribunal, of any appeal from a decision by it or any interlocutory proceedings in the appeal, by the Secretary of the Service Commission or an attorney-at-law, and the Secretary of the Service Commission or the attorney-at-law representing the Service Commission shall be entitled to be heard by the bench while hearing the appeal or the interlocutory proceedings in the appeal, as the case may be.

(5) The bench of the Tribunal may, if it appears to be expedient in the interests of justice, postpone or adjourn the hearing of an appeal or application or other proceedings for such time, and to such place, and upon such terms, if any, as it may think fit.

**13.** (1) If any of the parties to the appeal fails to appear when the appeal is called on for hearing by the bench of the Tribunal, the bench may proceed to hear the appeal in the absence of that party.

Absence of parties at hearing.

(2) Where an appeal has been heard by the bench of the Tribunal under subsection (1) in the absence of any party and any order has been made therein adverse to the party so absent, that party may apply, within such time as may be prescribed by the Minister by regulations, to the Tribunal to set aside the order and to re-hear the appeal and, the bench of the Tribunal may, if it thinks fit, and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-heard.

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(3) The provisions of subsections (1) and (2) shall apply *mutatis mutandis* to the hearing of an application by the bench of the Tribunal.

Admission of evidence by the bench of the Tribunal.

**14.** (1) The bench of the Tribunal may, if it appears to the bench to be necessary for the determination of any matter in dispute in any appeal before it, allow the production of evidence or fresh evidence.

(2) The bench of the Tribunal may accept evidence by affidavit or otherwise.

Power of the bench of the Tribunal to summon and examine witnesses.

**15.** (1) The bench of the Tribunal shall have the power of a Judge of the High Court to summon witnesses, and to call for the production of books, plans and other documents, and to examine witnesses and parties concerned on oath.

(2) A summons for the attendance of a witness or other person, or the production of documents, shall be in such form as may be prescribed by the Minister by regulations, shall be signed by the registrar and shall be served in the same manner as a notice.

Duty of witnesses summoned.

**16.** Every person summoned to attend and give evidence, or to produce books, plans or other documents at any sitting of the bench of the Tribunal, shall be bound to obey the summons served upon him as fully in all respects as a witness is bound to obey a subpoena issued from the High Court, and shall be entitled to like expenses as if he had been summoned to attend the High Court on a civil trial and such expenses shall be paid by the party summoning the witness.

Penalty for contumacy or insult, interruption of proceedings, etc.  
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**17.** (1) Every person, referred to in section 16, refusing or omitting, without sufficient cause, to attend at the time and place mentioned in the summons served on him, and every such person attending but leaving a sitting of the bench of the Tribunal without the permission of the members of the bench or refusing without sufficient cause to answer, or answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by or with the concurrence of the bench or refusing or omitting without sufficient cause to produce any books, plans or other documents in his possession or under his control and mentioned or referred to in the summons served on him, and every person who shall, at any sitting of any bench of the Tribunal, wilfully insult any member or

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the registrar or wilfully interrupt the proceedings of the bench, shall be liable on summary conviction to a fine of twenty-seven thousand five hundred dollars and to imprisonment for six months.

(2) Any witness who shall wilfully give false evidence in any proceedings before any bench of the Tribunal concerning the subject matter of the proceedings shall be guilty of perjury and shall be liable to be prosecuted and punished accordingly.

**18.** (1) The bench of the Tribunal may, if it appears to the bench to be necessary for the determination of any matter in dispute in any appeal before it, direct the Service Commission to produce the record of the proceedings of, or before, the Service Commission relating to the decision appealed from.

Power of the bench of the Tribunal to call for the record of the proceedings relating to the decision appealed from.

(2) A direction under subsection (1) shall be addressed to the Secretary of the Service Commission, and sections 16 and 17 shall apply to, and in relation to, any such direction as if it were a summons issued under section 15 to the Secretary and each of the members of the Service Commission.

**19.** (1) Subject to the provisions of this Act, the Minister may make regulations to prescribe the procedure of the Tribunal.

Procedure of the Tribunal.

(2) No appeal shall be deemed to be validly decided by the Tribunal unless it is decided by a bench of the Tribunal constituted in the manner provided in section 12(1).

(3) Subject to the provisions of this Act and the regulations made by the Minister, the Tribunal may regulate its own procedure and the chairman may, after consultation with the other members, make rules for that purpose.

**20.** (1) The bench of the Tribunal shall announce its decision on any matter heard by it as soon as may be practicable after the hearing.

Order of the bench of the Tribunal.

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(2) Where all the members of the bench of the Tribunal agree on the decision on any matter before it, that decision shall be the decision of the bench, but where all the members of the bench do not agree on the decision, the decision of the majority of the members of the bench shall be the decision of the bench.

(3) The decision of the bench of the Tribunal shall be in writing and signed by the members of the bench who agree to the decision, and shall state the reasons for the decision:

Provided that a member of the bench who does not agree with the decision of the bench may record and sign his dissent giving the reasons therefor and it shall be annexed to the decision.

(4) A party to the appeal shall, on application made therefor by him and payment of such fees, if any, as may be prescribed by the Minister by regulations, be provided with a copy of the decision of the bench of the Tribunal on that appeal or any proceedings in that appeal.

(5) The decision of the bench of the Tribunal on any appeal brought to it and on any application or other interlocutory proceedings in the appeal shall be final.

Appeals by  
certain  
organisations.

**21.** (1) Where any organisation representing public officers or any class or section of public officers is of the view that a decision of the Service Commission involves a principle and the decision is wrong, it may bring an appeal to the Tribunal within a period of ninety days computed from the date on which the secretary of the organisation came to know of the decision:

Provided that the bench of the Tribunal may entertain an appeal after the expiry of the aforesaid period of ninety days if it is satisfied that there was reasonable cause for the delay.

(2) The decision of the Tribunal on the principle involved in the decision of the Service Commission shall be binding on the Service Commission in regard to any matter that may arise for the consideration

of the Service Commission after the date of the decision of the Tribunal, but the decision of the Tribunal on the principle shall not affect anything done by the Service Commission before the aforesaid date.

(3) It shall not be necessary for the organisation bringing an appeal under subsection (1) to make any public officer a party to it or for the Tribunal to hear any public officer.

(4) Subject to the provisions of this section and save as otherwise provided in any other provision of this Act, the other sections of this Act shall apply *mutatis mutandis* to, and in relation to, any appeal brought by any organisation under subsection (1).

**22.** (1) Where an appeal, not being an appeal brought under section 21 (1), has been brought to the Tribunal, the bench of the Tribunal may, on application made to it by the appellant and on being satisfied that the interests of justice so require—

Interlocutory orders.

- (a) stay the operation of the decision appealed from; or
- (b) make such other order as it considers appropriate in respect of the operation or enforcement of the order appealed from,

on such conditions, if any, as it deems fit.

(2) An order under subsection (1) shall ordinarily be made after notice of the application for the order to the respondent or, if there are more respondents than one, to all the respondents, but if the bench of the Tribunal is satisfied that the delay likely to be caused by the time taken for the service of the notice on the respondent or the respondents may defeat the interests of justice, it may make any order referred to in subsection (1) without the issue of any such notice and thereafter issue notice of the application to the respondent or the respondents:

Provided that a respondent may, on receipt of the notice or otherwise, appear and show cause against the order so made and after hearing the parties to the appeal the bench of the Tribunal may confirm, modify or cancel the order.

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Form and manner of service of notices.

**23.** Notices under this Act shall be in such form, and shall be served in such manner, as may be prescribed by the Minister by regulations.

Exemptions.

**24.** Notwithstanding anything contained in any other provision of this Act, no appeal shall lie to the Tribunal from any decision of the Service Commission mentioned in the proviso to article 215A (5) of the Constitution.

Power to amend the Schedule.

**25.** The Minister may by order, subject to negative resolution of the National Assembly, amend the Schedule by including therein any matter in respect of which the Service Commission is empowered to make a decision.

Power to make regulations.

**26.** (1) The Minister may make regulations for carrying into effect the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may in particular provide for all or any of the following matters—

(a) the terms and conditions of the appointment of the members of the Tribunal;

(b) the form of the oath of office to be taken by the members and the registrar;

(c) the form of an appeal to the Tribunal and the documents and the fees that shall accompany the appeal;

(d) the forms of applications under this Act; and the time within which an application under section 13 for the re-hearing of an appeal or application shall be made;

(e) the form of summons for the attendance of a witness or other person or the production of documents;

(f) the procedure of the Tribunal, including the manner of the hearing of an appeal or application by the bench of the Tribunal, the mode of the proof and admissibility of evidence in proceedings before the bench of the Tribunal, and the recording and proof of the decisions of the bench of the Tribunal;

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(g) the fees payable for obtaining a copy of a decision of the bench of the Tribunal;

(h) the form and manner of service, of notices under this Act;

(i) the functions of the registrar;

(j) any other matter that is required to be, or may be, prescribed by the Minister by regulations made under this Act.

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SCHEDULE

s. 9(1)

*Appealable Matters*

1. Appointment by promotion of any person to a public office.
  2. Exercise of disciplinary control over any person holding, or acting in, any public office.
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