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PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND JUSTICE

NOTIFICATION

Islamabad, the 26th April, 2017

S. R. O. 287(I)/2017.—In exercise of the powers conferred by section 10 of the Islamabad Sub-ordinate Judiciary Service Tribunal Act, 2016 (V of 2016), the Federal Government is pleased to make the following rules, namely:—

1. **Short title and commencement.**—(1) These rules may be called the Islamabad Sub-ordinate Judiciary Service Tribunal Rules, 2017.

(2) These rules shall come into force at once.

2. **Definition.**—(1) In these rules, unless the context otherwise requires—

(a) “Act” means the Islamabad Sub-ordinate Judiciary Service Tribunal Act, 2016 (V of 2016);

(b) “Counsel” means the duly appointed counsel by the parties; and

(769)

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- (c) "Registrar" means Registrar of the Tribunal, and includes any other person authorized by the Tribunal to perform the duties and functions of the Registrar under these rules.

(2) The terms used but not defined herein shall have the same meanings as are assigned to them in the Act.

3. **Working hours.**—The Tribunal shall observe such hours of sittings as it may determine.

4. **Holidays.**—The Tribunal shall observe such holidays as are notified by the Federal Government, and such local holidays as are observed by the Islamabad High Court, Islamabad.

5. **Sitting of Tribunal.**—The Tribunal shall hold its sitting at Islamabad.

6. **Procedure to prefer Appeal.**—(1) An appeal to the Tribunal shall be presented complete in all respect to the Registrar during office hours by the appellant or any of the appellants either personally or through counsel.

(2) The memorandum of appeal shall,—

- (a) be legible, correct, concise and either hand written or typed or printed;
- (b) be divided into paragraphs numbered consecutively, each paragraph containing as nearly as may be possible separate allegation;
- (c) containing the full name, official designation and place of posting of each party;
- (d) clearly set out the relief claimed;
- (e) be accompanied by,—
 - (i) copy of impugned order, against which the appeal is prepared and a copy of the seniority list or other order of the competent authority fixing seniority if required; and
 - (ii) copies of rules, orders and other documents on which the appellant proposed to rely in support of his claim;
- (f) be signed by the appellant; and

- (g) be accompanied by four spare copies of the memorandum of appeal and such number of copies as there are respondents thereof, complete in all respect, signed by the appellant and accompanied by the documents referred to in clause (e):

Provided that where the Tribunal is satisfied that it is not possible for an appellant to produce any document referred to in clause (e), it may waive the provisions of the said clause.

(3) Every memorandum of appeal shall be presented to the Registrar in file covers and accompanied by a typed or printed index of papers failing which the appeal may not be entertained.

(4) In every memorandum of appeal, the competent authority whose order is challenged shall be shown as Respondent No.1 and every person who may be affected by the relief claimed, shall also be shown as respondent:

Provided that if the competent authority whose order is challenged is the Chief Justice or a judge of the Islamabad High Court, then Registrar, Islamabad High Court shall be shown as Respondent No.1 .

(5) An appeal, presented after period of limitation as prescribed in the Act, shall be accompanied by an application supported by an affidavit setting forth the cause of such delay.

7. Scrutiny of appeals.—The Registrar shall scrutinize every memorandum of appeal presented to him and shall,—

- (a) if it is in order and drawn up in accordance with these rules cause it to be registered in the Register of Appeals to be maintained by the Tribunal;
- (b) if it is not drawn up in the prescribed manner hereinbefore, return it to the appellant or his counsel for amendment, within such time to be specified in an order to be recorded by him on the memorandum of appeal, pointing out the deficiency; and
- (c) where the memorandum of appeal is not drawn up in the prescribed manner and the appellant or his counsel fails to amend the same within the period specified by the Registrar, the Tribunal may pass such order as it may deem fit.

8. Fixation of date of hearing.—(1) The Tribunal may, after fixing a day for hearing the appellant, and after hearing him or where he is represented by counsel, hearing the counsel, dismiss the appeal in limine.

(2) If the appeal is not dismissed in limine, notices of admission of appeal and of the day fixed for its hearing, issued under the signature of Registrar or any other official authorized by him in this behalf, shall, subject to the provisions of rule 9, be served on the appellant and the respondents, or on their counsels, if they are so represented, and on such other persons as the Tribunal may deem proper.

(3) Except as otherwise directed by the Tribunal, for reasons to be recorded in writing, the cases shall be fixed for hearing on their own turn, according to the dates of their admission.

9. **Deposit of security, etc.**—(1) If the appeal is admitted, the appellant shall deposit with the Registrar,—

- (a) cash security for costs in the sum of one thousand rupees only; and
- (b) such cost of service of notices on the respondents as may be determined by the Registrar, including the cost of publication, if it is desirable to serve the notices by publication in the newspapers.

(2) if within ten days of admission of appeal, the appellant does not deposit the security and the cost of service of notices, the appeal may be dismissed.

10. **Service of notice.**—(1) A notice under rule 9 may be served by registered post or in any other manner as the Tribunal may direct.

(2) The notice to the respondents shall be accompanied by a copy of the memorandum of appeal and all the documents appended therewith.

(3) The Tribunal may, where the number of respondents is large or where otherwise the Tribunal considers it appropriate or desirable to do so, direct that in addition to sending a copy of the notice to the respondents by registered post, the notice shall be published in one or more daily newspapers having circulation in the areas where the respondents ordinarily reside or are serving.

(4) Service of notice in accordance with the provisions of this rule shall be deemed to be due notice and it shall not be necessary to prove that a party has actually received the notice.

11. **Submission of written reply by respondent.**—(1) In response to the notice served under rule 9, the respondent may submit his written reply to the Registrar either personally or through his counsel, before the date specified in the notice for the hearing of the appeal.

(2) The reply shall be legible and concise and either hand written or typed or printed, signed by respondent and shall be accompanied by a copy of the order or other document on which the respondent wishes to rely in support of his case.

(3) The written reply shall be accompanied by four spare copies thereof, complete in all respects and containing copies of the order and other documents referred in sub-rule (2). Three of these copies shall be supplied for the use of Tribunal and the fourth copy for the appellant or his counsel.

(4) In case written reply is not submitted within time granted by Tribunal in this regard, the respondent may be proceed against *ex-parte*.

12. Determination of questions.—(1) Questions arising for determination by the Tribunal shall be decided ordinarily upon affidavits and documents proved by affidavits however Tribunal may direct that such questions as it may consider necessary be decided on such other evidence and in such manner as it may deem fit.

(2) The party affected by an affidavit may be permitted by the Tribunal to cross examine the deponent with reference to the statements in the affidavit.

13. Summoning of witnesses.—(1) An application for summoning witnesses before the Tribunal shall be made within ten days after the service of notice of appeal under rule 9 and it shall state,—

- (a) the names, designations and addresses of the witnesses to be summoned;
- (b) a brief resume of the evidence which each witness is expected to give; and
- (c) a brief description of the document to be summoned and name and location of the office in which such document is expected kept.

(2) If the Tribunal is of the opinion that the evidence of any witness specified in the list of witnesses given under sub-rule (1) will be of material assistance in the disposal of an appeal before it, it shall direct him to be summoned on a date to be fixed by the Tribunal, and direct that the daily allowance and travelling charges of such witness, at the rates admissible to witnesses appearing in the High Court, should be deposited by the person calling him, within the time specified by the Tribunal.

(3) If a person applying for the summoning of a witness fails to deposit the requisite costs of witness, within the period specified by the Tribunal under

sub-rule (2), or within any extension thereof that may be granted by the Tribunal, the application for summoning of witness, so far as it relates to such witness, shall be deemed to have been rejected.

(4) If the Tribunal is of the opinion that the evidence of any witness is necessary for the disposal of an appeal before it, it may direct that the witness be summoned.

(5) Where a Tribunal summons a witness under the provisions of sub-rule (4), if such witness is a—

- (a) Government servant, his travelling and daily allowance, if any shall be borne by concerned department; and
- (b) private person, his travelling and daily allowance shall be borne by the appellant.

(6) Except in urgent cases or as otherwise ordered by the Tribunal, a summon requiring a public officer to give evidence or to produce a document shall be served through the head of his office.

14. Evidence of witnesses.—(1) The evidence of witness examined by the Tribunal shall be taken down under the superintendence of the Tribunal, ordinarily in the form of a narrative and shall form part of the record.

(2) The Tribunal may record such remarks as it thinks material respecting the demeanor of any witness while under examination.

15. What may be urged by an appellant.—The appellant shall not, except by the leave of the Tribunal, urge or be heard in support of any ground of objections not set-forth in memorandum of appeal, but the Tribunal, in deciding, the appeal shall not be confined to the grounds of objections set-forth in the memorandum of appeal or taken by leave of the Tribunal under these rules:

Provided that the Tribunal shall not rest its decisions on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the appeal on that ground.

16. Notice Board.—(1) A cause list shall be prepared under the orders of the Registrar, which shall be affixed on the notice board of the Tribunal.

(2) Except as otherwise directed by the Tribunal cases to be set down in the cause list shall be in the order of the date of admission.

17. **Hearing of Appeal.**—(1) On the day fixed, or on any other day to which the hearing may be adjourned, the appellant or his counsel shall be heard in the support of the appeal.

(2) The Tribunal shall, if it does not dismiss the appeal at once hear the respondent or his counsel against the appeal and in such case, the appellant shall be entitled to reply.

18. **Consequence of non-appearance of the appellant or respondent.**—(1) Where on the day fixed for the hearing of an appeal or any other day to which the hearing may be adjourned the appellant or his counsel, if any, does not appear when the appeal is called for hearing, the Tribunal may make an order that the appeal stands dismissed.

(2) Where the appellant or his counsel, if any, appears and the respondent or his counsel, if any, does not appear the appeal shall be heard *ex-parte*.

(3) Where an appeal is dismissed under sub-rule (1) or an *ex-parte* order is made under sub-rule (2), the Tribunal may for sufficient cause on an application made within fifteen days restore the appeal or, as the case may be, set aside the *ex-parte* order on such terms as to costs or otherwise as it thinks fit:

Provided that no order of restoration of an appeal dismissed in default or setting aside the *ex-parte* order shall be made unless notice of the application has been served on the opposite party.

19. **Adding respondent.**—When it appears to the Tribunal at the hearing that any person who has not been made a respondent in the appeal is interested in the result of the appeal, the Tribunal may adjourn the hearing to a further day to be fixed by the Tribunal and direct that person who has not been made a respondent in the appeal is interested in the result of the appeal, such person be made respondent.

20. **Order regarding costs, etc.**—(1) The Tribunal may make such order as to the costs of proceedings before it as it deems fit.

(2) Any cost awarded by a Tribunal which cannot be paid out of the cash security deposited by the appellant under rule 10, if not paid by the appellant within thirty days of the order, shall on the certificate of the Tribunal, be recoverable from the appellant as arrears of land revenue.

21. **No entertainment of appeal in certain cases.**—The Tribunal shall not entertain any appeal in which the matter directly and substantially in issue has already been finally decided by a court or a tribunal of competent jurisdiction.

22. **Appellant precluded from bringing another appeal in certain cases.**—Where an appeal has been withdrawn by the appellant and is in consequence dismissed by the Tribunal, the appellant shall, unless otherwise directed by the Tribunal, be precluded from bringing another appeal in respect of the same cause of action.

23. **Administrative functions of the Tribunal to vest in the Chairman.**—The administrative functions of the Tribunal, except the appointment of staff, shall be performed by Chairman on behalf of the Tribunal.

24. **Constitution of Benches.**—Where the amount of work so justifies the Chairman may, for the purpose of admission of appeals, constitute one or more benches, each bench consisting of two members to be nominated by the Chairman.

25. **Furnishing of copy of order of final adjudication to the competent authority.**—A copy of every order of final adjudication on an appeal shall be furnished by the Registrar, free of cost, to the competent authority concerned which shall forthwith give effect to it.

26. **Inspection of records.**—Any provision contained in the High Court Rules and Orders as applicable to the Islamabad High Court, in regard to copies of inspection of record, shall *mutatis mutandis* and to the extent practicable apply to proceedings before a Tribunal.

[No.F.9(1)/2013-A.II.]

MUHAMMAD KAMRAN,
Section Officer.