

THE KERALA PUBLIC GRIEVANCE REDRESSAL TRIBUNAL BILL

A BILL for the redressal of the grievance of the public owing to the inactions or failure of the authorities to carry out their obligations;

BE it enacted in the Fifty ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*— (1) This Act may be called the Public Grievance Redressal Tribunal Act —.

(2) It shall come into force on such date as the Government may notify in the Gazette.

(3) It shall extent to the whole of the State of Kerala.

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

(a) ‘Prescribed’ means prescribed by rules made under this Act.

(b) ‘Public duty’ means a duty in the discharge of which the State, the public or the community at large has interest.

(c) ‘Public officer’ means every officer in the service or pay of Government, local authority, statutory body, company, society, corporation and any other authorities who are duty bound to do public duty for the welfare of the general public or community at large.

(d) ‘Tribunal’ means the Tribunal constituted under Section 3 of the Act.

3. *Constitution of Tribunal.*— (1) The Government shall constitute one or more Tribunals by notification in the Gazette for such area as may be specified in the notification.

(2) The Tribunal shall consist of a person who is or is qualified to be appointed, as a High Court Judge/or a Senior Advocate of the High Court of Kerala.

CHAPTER II

PUBLIC GRIEVANCE

4. *Public Officer to do his Public duty.*—(1) Every public officer shall do his duty diligently, and intelligently and in the manner specified in any Act, rules, orders, circulars or any other directions in whatever name it is issued.

(2) Every public officer under this Act shall be subject to accountability and transparency to the public and shall furnish all informations sought in this behalf by any citizen:

Provided that if the information sought for is frivolous or vengeful or by a busy body it can be rejected for reasons stated.

5. *Public to file petition before Tribunal.*— (1) Any person, whether he is affected by the action or inaction of the public authority, may file petition before the Tribunal having jurisdiction over the area in such manner as may be prescribed:

Provided that only such petitions alleging public inaction or failure to carry out the duties of the public officer shall be entertained by the Tribunal.

(2) There shall not be any prescribed form or any fees for filing petition under sub-section (1).

6. *Notice to public offices.* — (1) When a petition alleging culpable in action or failure to carry out the duties of a public office is received, the Tribunal shall examine the petition and satisfy himself that there is *prima facie* case made out to proceed against the public officer.

(2) If the Tribunal satisfies that there is *prima facie* case made out, a notice shall be issued to the public officer in such form as may be prescribed with a copy of the petition to file his written reply to the petition within such time as may be specified in the notice.

(3) The Tribunal shall examine the reply of the public officer and take a decision whether or not to proceed with the case or not.

(4) If the Tribunal decides to proceed with the case, Tribunal may fix the date and time for enquiry and intimate to the petitioner and the public officer in such manner as may be prescribed.

7. *Evidence.*— (1) Subject to the provisions of this section, for the purpose of any enquiry, the Tribunal may require any public officer or any other person who, in his opinion, is able to furnish information or produce documents relevant to the enquiry to furnish such information or produce such document.

(2) For the purpose of enquiry, the Tribunal shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Requiring the discovery and production of any document;
- (c) Receiving evidence on affidavits;
- (d) Requisitioning any public record or a copy thereof from any office;
- (e) Issuing Commissions for the examination of witnesses or documents;
- (f) Such other matters as may be prescribed.

8. *Disposal of Petitions.*—After enquiry by the Tribunal, it may issue any of the following orders, namely:—

- (i) Impose fine of an amount not exceeding of Rs.10, 000. The amount shall be proportionate to the nature of action, but it shall not be less than Rs.1,000.
- (ii) To do any act which is necessary for the redressal of the grievances of the petitioner.
- (iii) Restrain from doing any Act, in mitigation of hardship to the petitioner or to the public at large.
- (iv) Issue such orders as may be found necessary in the circumstances of the case.

9. *Special powers of the Tribunal.*—Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, on receiving information from reliable source that death or grievous hurt to any person from an accident due to failure of public duty of any public officer has occurred, the Tribunal shall conduct an on the spot inspection and enquiry and award at his discretion interim compensation to the victims of the accident forthwith.

CHAPTER III

PUBLIC OFFICER'S GRIEVANCE

10. *Jurisdiction of the Tribunal in service matters.*—The Tribunal constituted under Section 3 shall have jurisdiction to decide petitions relating to the grievances of public officers in relation to the service conditions.

11. Application to Tribunal.—(1) Subject to the other provisions of this Act, a public officer aggrieved by any order passed pertaining to any terms and conditions of his service may make an application to the Tribunal for the redressal of his grievance.

Explanation.—For the purpose of this sub-section, “order” means an order made—

(a) By the Government or a local or other authority within the State of Kerala or under the control of the State Government or by any Corporation or society owned or controlled by the Government.

(b) By an officer, committee or other body or agency of the Government or a local or other authority or Corporation or society referred to in clause (a).

(2) Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) in respect of filing of such application and by such other fees for the service or execution of processes, as may be prescribed.

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

(4) Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application 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.

12. Applications not to be admitted unless other remedies exhausted.— (1) The Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules applicable to him as to redressal of grievances.

(2) For the purpose of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances—

(a) If a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) Where no final order has been made by the Government or other authority or officer or other person competent to pass such orders with regard to the appeal preferred or representation made by such person if a period of three months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purpose of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.

13. Procedure and powers of Tribunal for this Chapter.—(1) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Government. The Tribunal shall have power to regulate its own procedure including the fixing of place and time of its inquiry and deciding whether to sit in public or in private.

(2) The Tribunal shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided on a perusal of documents and written representation and after hearing such oral arguments as may be advanced.

(3) The Tribunal shall have, for the purpose of discharging its functions under this Chapter, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters namely—

(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 affidavit;

(d) Subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872) requisitioning any public record or document or copy of such record or document from any office.

(e) Issuing Commissions for the examination of witnesses or documents;

(f) Reviewing its decisions;

(g) Dismissing a representation for default or deciding it ex parte;

(h) Setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and

(i) Any other matter which may be prescribed by the Government.

14. Execution of orders of the Tribunal.—Subject to the other provisions of this Act and the Rules, the order of the Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including High Court) and such order shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section (2) of Section 12 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed.

15. Power to make rules.—(1) The Government may by notification in the Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made under this section, shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Subject of Objects and Reasons

The main objects of recommending the Bill are two fold. One is to have a Tribunal constituted specially to hear all grievances which the public may be having against the illegal and improper actions and omissions on the part of public officers who are expected to discharge their official duties in a reasonable, fair and just manner without causing undue delay. But the present day experience is indisputably otherwise as regard the performance of public functionaries. The other object is to have a Special Tribunal constituted to hear the cases of the public officers in the State rather than leaving them to approach the High Court in all cases. In other words the new Tribunal is to function as a Special Tribunal for hearing the State Government officials' cases like C.A.T. in the case of Central Government officials. The reason for making the recommendation is that the public can put forward their grievances without any legal complications usually arising in proceedings before the High Court and other courts. Another reason is that if a Tribunal

is constituted to hear the cases of State Governments the huge arrears of the cases reported to be pending in the High court may be reduced to a considerable extent.
