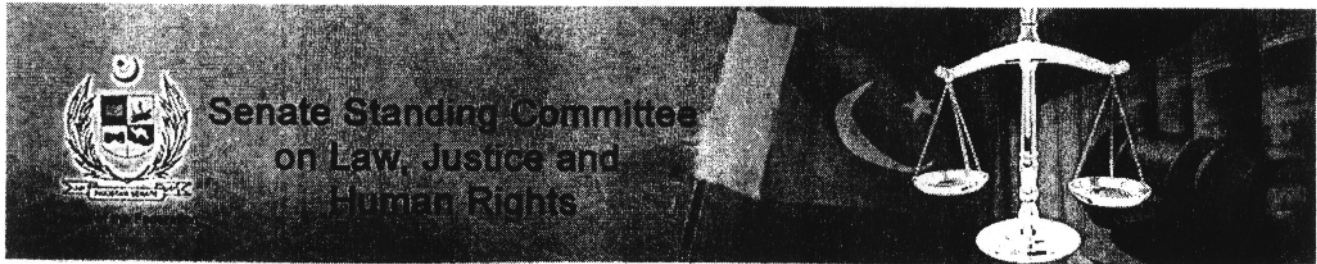


REPORT OF THE STANDING COMMITTEE ON LAW, JUSTICE AND HUMAN RIGHTS



“THE ISLAMABAD SUBORDINATE JUDICIARY SERVICE TRIBUNAL BILL, 2015”

**Report No. 09
(Thirteenth Parliamentary Year)**

PRESENTED BY

**SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN**

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW, JUSTICE AND HUMAN RIGHTS ON "THE ISLAMABAD SUBORDINATE JUDICIARY SERVICE TRIBUNAL BILL, 2015"

1. Chairman of the Standing Committee on Law, Justice and Human Rights, have the honour to present report on "The Islamabad Subordinate Judiciary Service Tribunal Bill, 2015" as passed by the National Assembly on 5th August, 2015 and laid in the Senate on 18th September, 2015. The Bill was referred to the Standing Committee for consideration and report.

2. The composition of the Committee on Law, Justice and Human Rights is as under:-

1.	<i>Senator Muhammad Javed Abbasi</i>	<i>Chairman</i>
2.	<i>Senator Raja Muhammad Zafar ul Haq</i>	<i>Member</i>
3.	<i>Senator Aitzaz Ahsan</i>	<i>Member</i>
4.	<i>Senator Dr. Muhammad Farogh Naseem</i>	<i>Member</i>
5.	<i>Senator Syed Muzafar Hussain Shah</i>	<i>Member</i>
6.	<i>Senator Saleem Zia</i>	<i>Member</i>
7.	<i>Senator Ms. Ayesha Raza Farooq</i>	<i>Member</i>
8.	<i>Senator Nawabzada Saifullah Magsi</i>	<i>Member</i>
9.	<i>Senator Saeed Ghani</i>	<i>Member/Mover</i>
10.	<i>Senator Zaheer ud Din Babar Awan</i>	<i>Member</i>
11.	<i>Senator Mrs. Zahida Khan</i>	<i>Member</i>
12.	<i>Senator Farooq Hamid Naek</i>	<i>Member</i>
13.	<i>Minister for Law, Justice and Human Rights</i>	<i>Ex-officio Member</i>

3. The Committee considered the Bill in its meeting held on 13th October, 2015 under the Chairmanship of Senator Muhammad Javed Abbasi. Following Members attended the meeting:-

1.	<i>Senator Muhammad Javed Abbasi</i>	<i>Chairman</i>
2.	<i>Senator Mrs. Zahida Khan</i>	<i>Member</i>
3.	<i>Senator Nawabzada Saifullah Magsi</i>	<i>Member</i>

4. The "The Islamabad Subordinate Judiciary Service Tribunal Bill, 2015" seeks to amend the Islamabad High Court (IHC) was established under IHC Act, 2010. Since its establishment, there is no Subordinate Judiciary Service Tribunal at Islamabad through which relief against the order of competent authority of Islamabad High Court could be sought. The Chief Justice Islamabad High Court has desired that steps may be taken for appropriate legislation for the establishment of Islamabad Subordinate Judiciary Service Tribunal.

5. The Committee, after detailed deliberations, recommended that following proviso may be added in clause (3) of the instant Bill:-

"Provided that a Judge against whose orders an appeal is Preferred shall not be member of the Tribunal."

6. The Committee recommends that the "The Islamabad Subordinate Judiciary Service Tribunal Bill, 2015", as reported by the Committee, may be passed by the Senate. (Copy of Bill as reported by the Committee is Annexed as "A" and Bill as passed by the National Assembly is annexed as "B").



(RABEEA ANWAR)
D.S / Secretary Committee



(SENATOR MUHAMMAD JAVED ABBASI)
Chairman

[AS REPORTED BY THE COMMITTEE]

A

BILL

to provide for the establishment of the Islamabad Subordinate Judiciary Service Tribunal

WHEREAS it is expedient to provide for the establishment of the Islamabad Subordinate Judiciary Service Tribunal and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. **Short title and commencement.**— (1) This Act may be called the Islamabad Subordinate Judiciary Service Tribunal Act, 2015.

(2) It shall come into force at once.

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

- (a) "Chairman" means the Chairman of the Tribunal;
- (b) "Government" means the Federal Government;
- (c) "Member" means a Member of the Tribunal and includes the Chairman;
- (d) "Member of subordinate judiciary" means and includes all Judicial Officers who are or have been under the administrative control of the Islamabad High Court; and
- (e) "Tribunal" means the Tribunal established under this Act and includes a Bench thereof.

3. **Tribunal.**— (1) The President may, subject to sub-section (3), by notification in the official Gazette, establish a Service Tribunal for the members of the subordinate judiciary of the Islamabad Capital Territory.

(2) The Tribunal shall have exclusive jurisdiction in respect of matters relating to the terms and conditions of service of the members of subordinate judiciary including disciplinary matters.

(3) The Tribunal shall consist of three judges of the Islamabad High Court nominated by the Chief Justice, the most senior of whom shall be the Chairman.

Provided that a Judge against whose orders an appeal is preferred shall not be member of the Tribunal.

4. **Constitution of benches.**— (1) Notwithstanding anything contained in section 3, the Chairman may constitute a Bench consisting of two Members with or without the Chairman and when so constituted, the Bench shall be deemed to be a Tribunal.

(2) If a Bench is unable to arrive at a unanimous decision, in an appeal, the matter shall be placed before the full Tribunal and the decision of the Tribunal shall be expressed in terms of the opinion of the majority.

(3) The Chairman may, at any stage of hearing of an appeal withdraw it from the Tribunal and entrust it to a Bench or may withdraw any appeal pending before a Bench and make it over to another Bench or to the Tribunal.

5. Appeal to Tribunal.— Any member of subordinate judiciary aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions **including disciplinary matters** of his service may, within thirty days of the communication of such order to him or within six months of the establishment of the Tribunal, whichever is later, prefer an appeal to the Tribunal:

Provided that—

- (a) where an appeal, review or representation to a departmental authority is provided under the Civil Servants Act, 1973 (LXXI of 1973), or any rules against any such orders, no appeal shall lie to the Tribunal unless the aggrieved person has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application, or representation was so preferred; and
- (b) no appeal shall lie to the Tribunal against an order or decision of a departmental authority determining the fitness or otherwise of a person to be appointed to, or hold a particular post or to be promoted to a higher post.

Explanation.— In this section 'departmental authority' means the authority, other than a Tribunal which is competent to make an order in respect of any of the terms and conditions of service of members of subordinate judiciary.

6. Powers of Tribunal.— (1) Tribunal may, on appeal, confirm, set aside, vary or modify the order appealed against.

(2) The Tribunal shall, for the purpose of deciding any appeal, be deemed to be a civil court and shall have the same powers as are vested in such court under the Code of Civil Procedure, 1908 (V of 1908), including the powers of—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents; and
- (c) issuing commission for the examination of witnesses and documents.

(3) No court fee shall be payable for preferring an appeal to, or filing, exhibiting or recording any document in, or obtaining any document from a Tribunal.

7. Review.— (1) A Tribunal shall have the power to review its final order on a review petition filed by an aggrieved party within thirty days of the order on the following grounds, namely:-

- (i) discovery of new and important matter or evidence which, after exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him at the time when the order was passed;
- (ii) on account of some mistake or error apparent on the face of record; or
- (iii) for any other sufficient cause.

(2) The Tribunal shall decide the review petition within thirty days.

(3) The Tribunal may confirm, set aside, vary or modify the judgment or order under review.”

8. Limitation.— The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall apply to appeals under this Act.

9. Transfer of Appeals.— All appeals pending before the Tribunal established under the Service Tribunals Act, 1973 (LXXI of 1973), relating to members of subordinate judiciary shall stand transferred to the Tribunal established under this Act.

10. Powers to make rules.— The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS & REASONS

The Islamabad High Court (IHC) was established under IHC Act, 2010. Since its establishment, there is no Subordinate Judiciary Service Tribunal at Islamabad through which relief against the order of competent authority of Islamabad High Court could be sought. The Chief Justice Islamabad High Court has desired that steps may be taken for appropriate legislation for the establishment of Islamabad Subordinate Judiciary Service Tribunal.

The Bill is designed to achieve the aforesaid objective.

Minister-in-Charge

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

to provide for the establishment of the Islamabad Subordinate Judiciary Service Tribunal

WHEREAS it is expedient to provide for the establishment of the Islamabad Subordinate Judiciary Service Tribunal and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. **Short title and commencement.**— (1) This Act may be called the Islamabad Subordinate Judiciary Service Tribunal Act, 2015.

(2) It shall come into force at once.

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

- (a) "Chairman" means the Chairman of the Tribunal;
- (b) "Government" means the Federal Government;
- (c) "Member" means a Member of the Tribunal and includes the Chairman;
- (d) "Member of subordinate judiciary" means and includes all Judicial Officers who are or have been under the administrative control of the Islamabad High Court; and
- (e) "Tribunal" means the Tribunal established under this Act and includes a Bench thereof.

3. **Tribunal.**— (1) The President may, subject to sub-section (3), by notification in the official Gazette, establish a Service Tribunal for the members of the subordinate judiciary of the Islamabad Capital Territory.

(2) The Tribunal shall have exclusive jurisdiction in respect of matters relating to the terms and conditions of service of the members of subordinate judiciary including disciplinary matters.

(3) The Tribunal shall consist of three judges of the Islamabad High Court nominated by the Chief Justice, the most senior of whom shall be the Chairman.

4. **Constitution of benches.**— (1) Notwithstanding anything contained in section 3, the Chairman may constitute a Bench consisting of two Members with or without the Chairman and when so constituted, the Bench shall be deemed to be a Tribunal.

(2) If a Bench is unable to arrive at a unanimous decision, in an appeal, the matter shall be placed before the full Tribunal and the decision of the Tribunal shall be expressed in terms of the opinion of the majority.

(3) The Chairman may, at any stage of hearing of an appeal withdraw it from the Tribunal and entrust it to a Bench or may withdraw any appeal pending before a Bench and make it over to another Bench or to the Tribunal.

5. Appeal to Tribunal.— Any member of subordinate judiciary aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions **including disciplinary matters** of his service may, within thirty days of the communication of such order to him or within six months of the establishment of the Tribunal, whichever is later, prefer an appeal to the Tribunal:

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The Bill is designed to achieve the aforesaid objective.

Mr. Pervaiz Rashid
Minister for Law,
Justice and Human Rights