

**THE BALOCHISTAN CIVIL SERVANTS (APPEAL)
RULES, 2013**

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RULES

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**¹THE BALOCHISTAN CIVIL SERVANTS (APPEAL)
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NOTIFICATION

[26th February, 2013]

No. S.O (R-I) 1 (10)/2013-S&GAD/912-1011. In exercise of the powers conferred by Section 25 of the Balochistan Civil Servants Act, 1974² (Act No. IX of 1974), the Government of Balochistan is pleased to make the following rules, namely:-

1. Short Title and Commencement and Application.— (1) These rules may be called the Balochistan Civil Servants (Appeal) Rules, 2013.

2. (1) They shall come into force at once.

(2) They shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province.

(3) Nothing in these rules shall apply to,—

- (a) persons for whose appointment and conditions of service special provision is made by or under any law for the time being in force;
- (b) persons employed temporarily, on the terms that their appointment may be terminated on one month's notice or less;
- (c) any person for whom special provision is made in respect of matters covered by these rules by or under any law for the time being in force or by or under any agreement entered into by or with the previous approval of the Government before or after the commencement of these rules, in regard to matters covered by such special provisions;
- (d) any class of persons in respect of whom the Government makes a declaration that their conditions of service shall not be governed by these rules.

Provided that, in respect of any matter not covered by the provisions special to him, his service or his post, these rules shall apply to any person coming within the scope of exception (c) above to whom but for this exception the rules would otherwise apply.

(4) Notwithstanding anything contained in sub-rule (3), the Government may by order exclude any class of Government employees from the operation of all or any of these rules;

¹ These rules have been issued by the Services and General Administration Department, Government of Balochistan, vide its Notification No. S.O (R-I) 1(10)/2013-S&GAD/912-1011, dated 26th February, 2013; and published in the Balochistan Gazette (Extraordinary) No. 34, dated 26th February, 2013.

² Baln. Act IX of 1974 was passed by the Balochistan Assembly on 19th June, 1974; assented to by the Governor of Balochistan; and published in Balochistan Gazette (Extraordinary) No. 41, dated 20th July, 1974.

(5) Notwithstanding anything contained in sub-rule (3), these rules shall apply to every Government employee temporarily transferred to a service or post coming within clause (c) of sub-rule (3) to whom, but for such transfer these rules would apply;

(6) If any doubt arises whether these rules or any of them apply to any person, the matter shall be referred to the Government, who shall decide the same.

3. Definitions.— (1) In these rules, unless there is anything repugnant in the subject or context:-

- (a) **“Act”** means the Balochistan Civil Servants Act, 1974¹ (Act No. IX of 1974);
- (b) **“Appellate Authority”** means the officer or authority next above the Competent Authority; or any other authority so designated to which an appeal lies against whose order the appeal is preferred and where the order is made by the Chief Minister/Chief Executive of the Province;
- (c) **“Appointing Authority”** means an Appointing Authority declared under the Balochistan Civil Servants Act 1974 (Act No. IX of 1974) or any other law for the time being in force, or notified as such by an order of the Provincial Government, as the case may be or under the rules, as may be applicable to such Civil Servants or such employees or class of employees;
- (d) **“Chief Executive”** means the Chief Minister or the Governor as the case may be, of the Province;
- (e) **“Civil Servant”** means a person in the service of Government of Balochistan to whom these rules apply;
- (f) **“Competent Authority”** means the Authority Competent or a Delegatee Authority shall be such as may be specified by the Provincial Government in the rules regulating the appointment and conditions of the civil servants under any of the rules made applicable upon the Civil Servants to pass such orders;
- (g) **“Departmental authority”** means any authority, other than a Tribunal, which is competent to make an order in respect of any of the terms and conditions of service of civil servants.
- (h) **“Order”** means an Order passed against a Civil Servants by the Competent Authority duly communicated to the Civil Servant which alters to his disadvantage of his conditions of services;
- (i) **“Prescribed”** means prescribed by these Rules;
- (j) **“Province”** means Province of Balochistan;
- (k) **“Government”** means the Government of Balochistan;

¹ Baln. Act IX of 1974 was passed by the Balochistan Assembly on 19th June, 1974; assented to by the Governor of Balochistan; and published in Balochistan Gazette (Extraordinary) No. 41, dated 20th July, 1974.

(l) **“Reviewing Authority”** means the Highest Authority of the Provincial Government/Chief Executive to which a Review lies against whose order the Review is preferred;

(m) **“Rules”** means the Balochistan Civil Servants (Appeal) Rules, 2013;

4. Service of Orders etc.— Every order, notice and other process made or issued under these rules shall be served in person on the Government employee concerned or communicated to him by registered post:

Provided that if there is reason to believe that the Government employee is keeping out of the way for the purpose of avoiding service, or that for any other reason. The order, notice and other process cannot be served upon him in the manner local aforesaid, the same shall be got published in any of the leading newspapers giving last known address of the employee concerned and thereupon the same shall be deemed to have been served upon him.

5. Period of Limitation.— No Review/Appeal preferred under these rules shall be entertained unless such appeal is preferred within a period of sixty (60) days from the date on which a copy of order appealed against is delivered to the appellant;

Provided that the Reviewing Authority/Appellate Authority may entertain the appeal/representation after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the Appeal/Review/Representation in time or that the earlier appeal or Review Petition was not addressed to the correct Authority.

6. Right of Departmental appeal.— (1) Where a right to prefer an appeal in respect of an order relating to the terms and conditions of his service is allowed to a civil servant by any rules applicable to him, such appeal shall, except as may otherwise be prescribed, be made subject to Rule 5 of the communication to him of such order.

(2) Where no provision for appeal exists in the rules in respect of any order, a civil servant aggrieved by any such order may, except where such order is made by the Chief Minister/Chief Executive, subject to rule-5 of the communication to him of such order, make an appeal against it to the authority next above the authority which made the order.

(3) Subject to provisions of sub rule 4 a civil servant shall be entitled to appeal to the appellate authority from an order passed by any Competent Authority against all or any of the following orders, namely:—

(a) an order which:—

- (i) denies or varies or alters to his disadvantage, his conditions of service, pay, allowances or pension as regulating by rules or by agreement;
- (ii) an order to his disadvantage the provision of any such rule or agreement;
- (iii) terminating his services in accordance with the terms of his contract, if he has been engaged on contract and has rendered continuous service for a period exceeding five years at the time when his services were terminated;
- (iv) alters to his disadvantage, his seniority etc.

- (b) an order which:—
 - (i) reverting him while officiating in a higher service, grade or post to a lower service, grade or post otherwise than as a penalty;
 - (ii) reducing or withholding the pension or denying the maximum pension admissible to him under the rules;
 - (iii) determining the subsistence and other allowances to be paid to him for the period of suspension;
 - (iv)
 - (1) determined his pay and allowances;
 - (2) for the period from the date of his dismissal, removal, or compulsory retirement from service, or from the date of his reduction to a lower service, grade, post, time scale or stage in a time scale of pay to the date of his reinstatement or restoration to his service, grade or post; *or*
 - (3) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time scale of pay or stage in a time scale of pay to the date of his reinstatement or restoration to his service, grade or post shall be treated as a period spent on a duty for any purpose.

(4) Notwithstanding anything contained in these rules, no appeal shall lie against

—

- (a) any order made by the Chief Minister/Chief Executive of the Province;
- (b) any order of a interlocutory nature or the nature to step-in-aid of the disposal of a case proceedings by the Chief Executive;
- (c) matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade;

7. Right of Departmental Review/ Representation.— (1) Where a right to prefer a Review in respect of order relating to the terms and conditions of his service is allowed to a civil servant by any rules applicable to him, such Review shall, except as may otherwise be prescribed, be made subject to rule-5 of the communication to him of such order.

(2) Notwithstanding anything contained in these rules, Review/ representation shall lie against—

- (a) any order made by the Chief Minister/Chief Executive of the Province;
- (b) any order of a interlocutory nature or the nature to step-in-aid of the disposal of a case proceedings by the Chief Executive;

(3) Notwithstanding anything contained in these rules, no Departmental Review/Representation shall lie against-

- (a) matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade;

8. Prohibition as to collective appeal or Review or Representation.— (1)

Where the order of the competent authority affects more than one civil servant, every affected civil servant shall prefer the appeal or Review or Representation as the case may be, separately without using the contents of the appeal/review of other co-civil servants and in his own name;

9. Form and content of an Appeal, Review and Representation.— (1)

The appeal or Review or Representation shall be presented to the authority to whom it lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies and shall not contain any disrespectful or improper language and shall be complete in itself.

(2) Every memorandum of appeal or Review or Representation shall—

- (a) contain full name and address, official designation and place of posting of the appellant;
- (b) state in brief the facts leading to the appeal;
- (c) be accompanied by a certified copy of the order appealed against and copies of all other documents duly attested on which the appellant wishes to rely.

Provided that where an aggrieved civil servant has died, his legal heir or heirs, while filing the appeal or applying for review, as the case may be, shall also add documents in support of his or their relationship with the deceased civil servant.

(3) Every such appeal or Review or Representation as the case may be, shall be submitted through the Head of the office in which the appellant serves or, if he is not in service, the Head of office in which he served and through the authority against whose order the appeal or review or representation is preferred:

Provided that an advance copy of it may be submitted direct to the Appellate/Reviewing Authority.

(4) Where the aggrieved civil servant has died, the appeal may be filed, or if already filed by such civil servant before his death, may be pursued, by his legal heir or heirs; provided that the benefit likely to accrue on the acceptance of such appeal is admissible to such legal heir or heirs under any rules for the time being applicable to civil servants.

(5) The Head of the Department/office or the authority which made the order appealed against, shall, on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the Appellate/Reviewing Authority without an avoidable delay and without waiting for any direction from the Appellate/Reviewing Authority.

(6) No Appeal or Review or Representation shall be entertained if it contains abusive, disrespectful or improper language.

10. Withholding of appeals or applications for review.— (1) An appeal or application for review may be withheld by an authority not lower than the authority from whose order it is preferred if:—

- (a) it is an appeal or application for review in a case in which under these rules no appeal or application for review lies; *or*
- (b) it does not comply with the provisions of rule 3, 4 and 5; *or*
- (c) it is an appeal and is not preferred within sixty days after the date on which the appellant was informed of the order appealed against, and no reasonable cause is shown for the delay; *or*
- (d) it is addressed to an authority to which no appeal lies under these rules; *or*
- (e) it is a repetition of a previous appeal or application for revision and is made to the same appellate or revisionary authority by which such appeal or application for revision has been decided and no new fact or circumstances are adduced which afford ground for a reconsideration of the case:

Provided that, in every case in which an appeal or application for review/revision is withheld the appellant or applicant shall be informed of the fact and the reasons for it:

Provided further that, an appeal or application for review withheld for failure to comply with the requirement of rule 3, 4, 5 and 7 may be re-submitted at any time within one month of the date on which the appellant or applicant has been informed of the withholding of the appeal or application and, if re-submitted in a form which complies with those provisions or is addressed to the proper appellate authority, as the case may be, shall not be withheld.

2. No appeal or application for review shall lie against an order withholding an appeal or application passed by a competent authority.

3. A list of the appeals, reviews or representations withheld by any authority under this rule, together with the reasons for withholding them, shall be forwarded quarterly by that authority to the Appellate Authority.

11. Forwarding of Appeals or Review or Representation applications.— (1) The authority which made the order appealed against shall forward to the Appellate Authority every appeal or review which is not withheld under rule 10, together with its comments thereon and the relevant records within 10 working days from the date of receipt of appeal or review.

(2) An Appellate Authority may call for any appeal admissible under these rules which has been withheld under rule 10, and thereupon such appeal shall be forwarded to that authority together with the comments of the authority withholding the appeal and the relevant records.

12. Consideration/ disposal of Appeals or Review.— (1) Every Appeal or Review received by the Appellate or Reviewing Authority under rule 11, shall be considered

by the relevant authority in the light of the provisions of these rules and having regards to the circumstances of the case, shall consider.-

- (a) Whether the procedure laid down in these rules has been complied with, and if not whether such non-compliance has resulted in the violation of any provisions of the relevant rules or in the failure of justice;
- (b) whether the order appeal against is excessive, adequate or inadequate.

(2) In the case of an appeal or review against any order, the Appellate Authority or Reviewing Authority shall consider all the facts and circumstances of the case and pass such orders, confirm, vary/modify or setting aside such order or as it deems just and equitable within a period of thirty days from the date of receipt of the Appeal/Review.

(3) An application for review shall be dealt with in the same manner as if it were an appeal under these rules.

(4) No powers of revision shall be exercised under these rules:-

- (a) by the same Appellate or Reviewing Authority where it has already considered the Appeal or the case and passed its orders thereon; *and*
- (b) by a Reviewing Authority unless it is higher than the Appellate Authority where an appeal has been preferred or where no appeal has been preferred at the time limit laid down for review by the Appellate Authority, has expired.

13. Implementation of orders in Appeal/Review.— The Authority which passed the order appealed/ review against, shall give effect to the orders passed by the Appellate/Reviewing Authority within thirty days from the date of receipt of the orders of the Appellate/Reviewing Authority and shall cause the order so passed to be communicated to the appellant without undue delay.

14. Aggrieved civil servant preferred an appeal or application for review or representation to departmental authority and no response received.— Where an appeal, review or representation to a departmental authority is provided under these rules and the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority. A period of ninety days has elapsed from the date on which such appeal, application or representation was so preferred and no response received, the civil servant shall be entitled to prefer an appeal to the Tribunal having jurisdiction in the matter under Section 4 of the Balochistan Service Tribunals Act, 1974¹.

15. Court Proceedings.— If there be any prosecution or legal proceedings against a Government servant pending in any court on the same issue, there shall be no bar on the disposal of departmental appeal/ review unless and until such departmental/review is stayed by the Court.

16. Savings.— Nothing in these rules shall operate to deprive any person of any right of appeal which he would have had if these rules had not been made, in respect of any orders passed before they came into force.

¹ Balochistan Act V of 1974; published in the Balochistan Gazette (Extraordinary) No. 30, dated 27th June, 1974.

17. Repeal.— (1) The Balochistan Civil Servants (Appeal) Rules, 1983, are hereby repealed.

(2) Notwithstanding the repeal of Balochistan Civil Servants (Appeal) Rules, 1983¹, all appeals pending immediately before the commencement of these rules against any employee under the said Rules or under Balochistan Civil Servants Act, 1974² (Act No. IX of 1974), and rules made thereunder, or any other law or rules shall continue under that law and rules, in the manner provided thereunder.

BY ORDER OF
GOVERNOR BALOCHISTAN

CHIEF SECRETARY
BALOCHISTAN

¹ Rules issued by the Services and General Administration Department, Government of Balochistan vide its notification No. SOR I(5)20/S&GAD-81, dated 23rd February, 1983; and published in the Balochistan Gazette (Extraordinary) No. 53, dated 1st March, 1983.

² Baln. Act IX of 1974 was passed by the Balochistan Assembly on 19th June, 1974; assented to by the Governor of Balochistan; and published in Balochistan Gazette (Extraordinary) No. 41, dated 20th July, 1974.