

## CHAPTER IV MUNICIPAL OFFICERS AND SERVANTS-THEIR APPOINTMENT AND CONDITIONS OF SERVICE

### **City Engineer, Medical Officer of Health, Municipal Chief Auditor, Municipal Secretary, Deputy Municipal Commissioner and Assistant Municipal Commissioner**

#### **45. Appointment of City Engineer, etc.**

#### **Appointment of City Engineer, etc.**

(1) The Corporation shall from time to time appoint fit persons to be City Engineer, Medical Officer of Health, Municipal Chief Auditor and Municipal Secretary.

(2) The Corporation may from time to time with the approval of the <sup>1</sup>[State] Government create an appointment of Deputy Municipal Commissioner or an appointment of Assistant Municipal Commissioner or so many such appointments as it considers necessary, and may appoint a fit person or fit persons to such appointments.

(3) An officer appointed under this section shall have such qualifications as may be prescribed under the rules and shall receive such monthly salary and allowances as the Corporation may with the approval of the <sup>2</sup>[State] Government from time to time Fix : Provided that the salary of no officer shall be altered to his disadvantage during his period of office.

(4) Every appointment made under this section excepting an appointment of a Municipal Secretary shall be subject to confirmation by the <sup>3</sup>[State] Government and any officer whose appointment the <sup>4</sup>[State] Government refuses to confirm shall be removed from office forthwith.

(5) On the occurrence of a vacancy in any office specified in this section an appointment shall be made thereto by the Corporation within four months from the date on which the vacancy occurred or, in the event of the removal of an officer under sub-section (4), within thirty days of the receipt by the Corporation of the order of the <sup>5</sup>[State] Government.

(6) In default of an appointment being made by the Corporation under Sub-section (5), the <sup>6</sup>[State] Government may appoint a fit person to fill the vacancy and such appointment shall for all purposes be deemed to have been made by the Corporation.

(7) Pending the settlement of an appointment under sub-section (1) or sub-section (5), the Corporation may appoint a person to fill the vacancy temporarily and may direct that the person so appointed shall receive such monthly salary and allowances not exceeding the maximum fixed under sub-section (3) for the time being as it thinks fit:

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<sup>1</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

<sup>2</sup> Same as 1.

<sup>3</sup> Same as 1

<sup>4</sup> Same as 1

<sup>5</sup> Same as 1

<sup>6</sup> Same as 1

**Powers and Duties  
of City Engineer  
and Medical Officer  
of Health**

Provided that no such appointment shall extend beyond or be made after a lapse of six months from the date on which the vacancy occurs.

**46. Powers and Duties of City Engineer and Medical Officer of Health.**

The City Engineer and the Medical Officer of Health shall perform such duties as they are directed by or under this Act to perform and such other duties as may be required of them by the Commissioner.

**Powers and Duties  
of Municipal Chief  
Auditor**

**47. Powers and Duties of Municipal Chief Auditor.**

(1) The Municipal Chief Auditor shall-

- (a) perform such duties as he is directed by or under this Act to perform and such other duties with regard to the audit of the accounts of the Municipal Fund as shall be required of him by the Corporation or by the Standing Committee and with regard to the audit of the accounts of the Transport Fund as shall be required of him by the Transport Committee;
- (b) prescribe, subject to such directions as the Standing Committee may from time to time give, the duties of the auditors and assistant auditors, clerks and servants immediately subordinate to him; and
- (c) subject to the orders of the Standing Committee, exercise supervision and control over the acts and proceedings of the said auditors, assistant auditors, clerks and servants and, subject to the regulations, dispose of all questions relating to the service, remuneration and privileges of the said auditors, assistant auditors, clerks and servants.

**Powers and duties  
of Municipal  
Secretary**

(2) The Municipal Chief Auditor shall not be eligible for further office under the Corporation after he has ceased to hold his office.

**48. Powers and duties of Municipal Secretary.**

The Municipal Secretary shall be the Secretary of the Corporation and also of the Standing Committee and shall-

- (a) perform such duties as he is directed by or under this Act to perform and such other duties in and with regard to the Corporation and the Standing Committee as shall be required of him by those bodies respectively;
- (b) have the custody of all papers and documents connected with the proceedings of
  - (i) the Corporation and any Committee appointed by the Corporation under section 30 or 31,
  - (ii) the Standing Committee and any sub-committee thereof;
- (c) prescribe, subject to such directions as the Standing Committee may from time to time give the duties of the officers and servants immediately subordinate to him; and
- (d) subject to the orders of the Standing Committee exercise supervision and control over the acts and proceedings of the said officers and servants and, subject to the regulations, dispose of all questions relating to the service, remuneration and privileges of the said officers and servants.

**Powers and duties  
of Deputy or  
Assistant Municipal  
Commissioner**

**49. Powers and duties of Deputy or Assistant Municipal Commissioner.**

(1) A Deputy Municipal Commissioner or Assistant Municipal Commissioner shall, subject to the orders of the Commissioner,

exercise such of the powers and perform <sup>7</sup>[such of the duties of the Commissioner, including powers and duties of a judicial or quasi-judicial nature] as the Commissioner shall from time to time depute to him:

Provided that the Commissioner shall inform the Corporation of the powers and duties which he from time to time deposes to a Deputy Municipal Commissioner or Assistant Municipal Commissioner :

<sup>8</sup>[Provided further that nothing in this sub-section shall be deemed to empower the Commissioner to issue any order regulating the exercise of powers or performance of duties of a judicial or quasi-judicial nature deputed by him.]

(2) All acts and things performed and done by a Deputy Municipal Commissioner or Assistant Municipal Commissioner during his tenure of office and by virtue thereof shall for all purposes be deemed to have been performed and done by the Commissioner.

**50. Conditions of service of statutory officers of Corporation.**

Conditions of service of statutory officers of Corporation

(1) The Transport Manager and all officers appointed under section 45 shall, subject to the provisions of sub-section (2), devote their whole time and attention to the duties of their respective offices and shall not engage in any other profession, trade or business whatsoever.

(2) The Corporation may, subject to the regulations, permit the Transport Manager or any other officer referred to in sub-section (1) to perform while on duty or during leave a specified service or series of services for a private person or body or for a public body, including a local authority or for the Government and to receive remuneration therefor.

(3) The Transport Manager or any other officer referred to in sub-section (1) shall be removable at any time from office for misconduct or for neglect of, or incapacity for, the duties of his office on the votes of not less than one half of the whole number of councillors.

(4) In all matters not otherwise provided for in this Act, the conditions of service of the Transport Manager and other officers specified in sub-section (1) shall be regulated by the regulations.

**Other Officers and Servants**

Number, designations, grades, etc. of other municipal officers and servants

**51. Number, designations, grades, etc. of other municipal officers and servants.**

(1) Subject to the provisions of sub-section (4) the Standing Committee shall from time to time determine the number, designations, grades, salaries, fees, and allowances of auditors, assistant auditors, officers, clerks and servants to be immediately subordinate to the Municipal Chief Auditor and the Municipal Secretary respectively.

(2) The Commissioner shall, from time to time, prepare and bring before the Standing Committee a statement setting forth the number, designations and grades of the other officers and servants who should in his opinion be maintained; and the amount and nature of the

<sup>7</sup> These words were and were deemed always to have been substituted for the words "such of the duties of the Commissioner" by Guj. 5 of 1970, s. 4(1).

<sup>8</sup> This proviso was and was deemed always to have been added, *ibid.*, s. 4(2).

salaries, fees and allowances, which he proposes should be paid to each.

(3) The Standing Committee shall, subject to the provisions of sub-section (4), sanction such statement either as it stands or subject to such modifications as it deems expedient.

<sup>9</sup>[(4) No new permanent office of which the minimum monthly salary; exclusive of allowances, exceeds such amount as may be fixed by the State Government by a general or special order from time to time in the case of each Corporation shall be created except with the previous sanction of the Corporation and no new office of which the minimum or maximum monthly salary exclusive of allowances exceeds such amount as may be fixed in this behalf by the State Government, by a general or special order, from time to time in the case of each Corporation shall be created except with the previous sanction of the State Government.]

(5) Nothing in this section shall be construed as affecting the right of the Corporation or of the Commissioner to make any temporary appointment which it or he is empowered to make under section 53.

<sup>10</sup>[Explanation.- An increase in the salary of any permanent office shall be deemed, for the purpose of sub-section (4), to be creation of new office if, by reason of such increase, the minimum or, as the case may be, the maximum monthly salary, exclusive of allowances, exceeds the minimum, or, as the case may be, the maximum amount fixed by State Government for the purpose of the said sub-section (4).]

## **52. Restriction on employment of permanent officers and servants.**

No permanent officer or servant shall be entertained in any department of the Municipal administration unless he has been appointed under section 40 or 45, or his office and emoluments are covered by sub-section (1) of section 51 or are included in the statement sanctioned under sub-section (3) of section 51 and for the time being in force.

## **53. Power of appointment in whom to vest.**

(1) The power of appointing municipal officers, whether temporary or permanent, whose minimum monthly salary exclusive of allowances <sup>11</sup>[exceeds such amount as may be fixed in this behalf by the State Government, by a general or special order, from time to time in the case of each Corporation] shall vest in the Corporation :

Provided that temporary appointments for loan works carrying <sup>12</sup>[a minimum monthly salary, exclusive of allowances of the amount as so fixed by the State Government] may be made for a period of not more than six months by the Commissioner with the previous sanction of the Standing Committee on condition that every such appointment shall forthwith be reported by the Commissioner to the Corporation and no such appointment shall be renewed on the expiry of the said period of six months without the previous sanction of the Corporation.

**Restriction on  
employment of  
permanent officers  
and servants**

**Power of  
appointment in  
whom to vest**

<sup>9</sup> Sub-section (4) was substituted by Guj. I of 1979, s. 5 (1).

<sup>10</sup> This Explanation was substituted, *ibid.*, s. 5(ii).

<sup>11</sup> These words were substituted for the words "is or exceeds four hundred rupees", *ibid.*, s.6(i).

<sup>12</sup> These words were substituted for the words "a monthly salary of rupees four hundred or more exclusive of allowances", *ibid.*, s. 6 (ii).

(2) Save as otherwise provided in sub-section (1), the power of appointing municipal officers and servants, whether temporary or permanent, under the immediate control of the Municipal Chief Auditor and the Municipal Secretary shall vest in the Municipal Chief Auditor or the Municipal Secretary, as the case may be, subject, in either case, to the approval of the Standing Committee unless the said Committee in any particular case/of class of cases dispenses with his requirement.

(3) Save as otherwise provided in this Act, the power of appointing municipal officers and servants whether permanent or temporary vests in the Commissioner :

Provided that such power in respect of permanent appointments shall be subject to the statement for the time being in force prepared and sanctioned under section 51:

Provided further that no temporary appointment shall be made by the Commissioner for any period exceeding six months and no such appointment carrying <sup>13</sup>[a monthly salary exceeding such amount as may be fixed in this behalf, by a general or special order, from time to time by the State Government in the case of each Corporation] shall be renewed by the Commissioner on the expiry of the said period of 6 months without the previous sanction of the Standing committee.

**Manner of making appointments**

**54. Manner of making appointments.**

(1) There shall be a Staff Selection Committee consisting of the Commissioner or any other officer designated by him in this behalf, the Municipal Chief Auditor, the Head of the Department concerned and not more than one other officer nominated by the Commissioner.

(2) The Staff Selection Committee shall, in the manner prescribed in the rules, select candidates for all appointments in the municipal service other than appointments referred to the sub-section (1) of section 53 and other than those which the Corporation may, with the previous approval of the <sup>14</sup>[State] Government, by order specify in this behalf, unless it is proposed to fill the appointment from amongst persons already in municipal service or unless the appointment is of temporary character and is not likely to last for more than six months.

(3) Every authority competent to make appointments in the municipal service shall make appointments of the candidates so selected in accordance with the directions given by the Staff Selection committee.

(4) With reference to officers and servants appointed under Chapter XX, the provisions of this section shall apply as if for word "Commissioner" the words "Transport Manager" had been substituted.

(5) Subject to the provisions of this section, any appointment of a municipal officer or servant shall be made in the manner prescribed in the rules, save as expressly provided therein.

**Saving in respect of officers and servants appointed under Chapter XX**

**55. Saving in respect of officers and servants appointed under Chapter XX.**

Nothing in sections 51, 52 and 53 shall apply to officers and servants appointed under the provisions of Chapter XX.

<sup>13</sup> These words were substituted for the words "a monthly salary of more than one hundred rupees, exclusive of allowances" by Guj. 1 of 1979, s. 6 (iii).

<sup>14</sup> This word substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**Imposition of penalties on municipal officers and servants**

**Imposition of penalties**

**56. Imposition of penalties on municipal officers and servants.**

(1) A competent authority may subject to the provisions of this Act impose any of the penalties specified in sub-section (2) on a municipal officer or servant if such authority is satisfied that such officer or servant is guilty of a breach of departmental rules or discipline or of carelessness, neglect of duty or other misconduct or is incompetent: Provided that-

(a) no municipal officer or servant whose monthly salary, exclusive of allowances, <sup>15</sup>[exceeds such amount as may be fixed in this behalf, by a general or special order, by the State Government in the case of each Corporation] shall be dismissed by the Commissioner without the previous approval of the Standing Committee;

(b) any officer appointed by the Corporation excepting the Transport Manager may be suspended by the Standing Committee, pending, an order of the Corporation, such suspension and the reason therefore being forthwith reported to the Corporation;

(c) the Commissioner may impose any of the penalties specified in clauses (a), (b), (c), (d) and (e) of sub-section (2) on any officer appointed by the Corporation other than the Transport Manager or any officer appointed under section 45;

(d) the Municipal Chief Auditor and the Municipal Secretary may impose any of the penalties specified in clauses (a), (b), (c), (d) and (e) of sub-section (2) on any officer, or servant immediately subordinate to them and drawing a monthly salary <sup>16</sup>[not exceeding such amount as may be fixed by the State Government, by a general or special order, from time to time in case of each Corporation] subject to a right of appeal to the Standing Committee and the Standing Committee may impose any other penalty on any such officer or servant and may also impose any penalty on any other officer or servant immediately subordinate to the Municipal Chief Auditor or the Municipal Secretary.

(2) The penalties which may be imposed under this section are the following, namely :-

(a) censure;

(b) with-holding of increments or promotion including stoppage at an efficiency bar;

(c) reduction to a lower post or time-scale, or to a lower stage in a time-scale;

(d) fine;

(e) recovery from salary of the whole or part of any pecuniary loss caused to the Corporation;

(f) suspension;

(g) removal from municipal service which does not disqualify from future employment;

(h) dismissal from municipal service which ordinarily disqualifies

<sup>15</sup> These words were substituted for the words "exceeds two hundred rupees" by Guj. 1 of 1979, s. 7 (a).

<sup>16</sup> These words were substituted for the words "not exceeding rupees one hundred and fifty, exclusive of allowances", *ibid.*, s. 7 (b).

from future employment

(3) No officer or servant shall be reduced to a lower post or removed or dismissed from service under this section unless he has been given a reasonable opportunity of showing cause against such reduction, removal or dismissal :

Provided that this sub-section shall not apply-

- (a) Where a person is reduced, removed or dismissed on the ground of conduct which has led to his conviction on a criminal charge; or
- (b) Where the competent authority is satisfied that, for reasons to be recorded in writing by such authority, it is not reasonably practicable to give that person an opportunity or showing cause.

(4) Subject to the provisions of clause (d) of the proviso to sub-section (1), any municipal officer or servant who is reduced, removed or dismissed by any authority other than the Corporation may, within one month of the communication to him of the order of reduction, removal or dismissal, appeal to the authority immediately superior to the authority which imposed the penalty and the appellate authority may, after obtaining the remarks of the authority which imposed the penalty, either confirm the order passed or substitute for it such order as it considers just, including an order for the imposition of some lesser penalty, and effect shall forthwith be given to any order passed by the appellate authority which shall be conclusive :

Provided that for the purposes of this sub-section the Standing Committee shall be deemed to be the authority immediately superior to the Commissioner and the Corporation shall be deemed to be the authority immediately superior to the Standing Committee.

(5) With reference to officers and servants appointed under Chapter XX the provisions of this section shall apply as if for the word "Commissioner" the words "Transport Manager" and for the words "Standing Committee" the words "Transport Committee" had been substituted.

Explanation- (1) For the purposes of this section a competent authority is the authority which under the provisions of this Act is competent to make the appointment to the post held by the particular municipal officer or servant,

(2) The monthly salary which would ordinarily be admissible to a municipal officer or servant on the date immediately preceding the date of the order imposing a penalty shall be deemed to be his salary for the purpose of the proviso to sub-section (1).

#### **Leave of absence, acting appointments, etc.**

#### **Leave of absence**

#### **57. Leave of absence.**

(1) Leave of absence may be granted subject to the regulations by the Commissioner to any municipal officer or servant whom he has the power of appointing and for a period not exceeding one month to any other municipal officer, other than the Transport Manager, officers and servants immediately subordinate to the Municipal Chief Auditor or the Municipal Secretary and officers and servants appointed under Chapter XX.

<sup>17</sup>[(2) Leave of absence for a period not exceeding one month may be granted by the Municipal Chief Auditor or the Municipal Secretary, as the case may be, to an officer or servant, immediately subordinate to him and receiving a monthly salary, exclusive of allowances, not exceeding such amount as may be fixed in this behalf, by a general or special order, by the State Government in the case of each Corporation.]

(3) Leave of absence may be granted by the Standing Committee to any officer or servant not covered by sub-section (1) or sub-section (2) excepting the Transport Manager and officer and servants appointed under the provisions of Chapter XX.

### **58. Acting appointments.**

#### **Acting appointments**

(1) The appointment of a person to act in the place of an officer absent on leave may be made when necessary and subject to the regulations by the authority granting the leave of absence :

Provided that-

(a) when an officer appointed under section 45 is granted leave of absence for a period exceeding one month, the appointment of a person to act for him shall be made by the Corporation and, excepting an appointment to act for the Municipal Secretary, shall be reported forthwith to the <sup>18</sup>[State] Government;

(b) any appointment reported to the <sup>19</sup>[State] Government under clause (a) may be disallowed by it and from the time of being so disallowed shall be null and void as from the date of the receipt by the Corporation of the order of the '[State] Government.

(2) A person appointed under this section to act for any officer or servant shall, while so acting, perform the same duties and exercise the same powers and be subject to the same liabilities, restrictions and conditions which such officer or servant is bound to perform or may exercise or to which such officer or servant is liable.

### **Disqualification of Municipal officers and servants.**

#### **Disqualification of Municipal Officers and Servants**

### **59. Disqualification of Municipal Officers and Servants.**

(1) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by, or on behalf of the Corporation, or in any employment with, by, or on behalf of the Corporation other than as a municipal officer or servant, shall be disqualified for being a municipal officer or servant.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid shall cease to be a municipal officer or servant and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by, or on behalf of the Corporation as under sub-clause (ii) or (iv) of clause (b) of sub-section (2) of section 10, it is permissible for a councillor to have, without his being thereby disqualified for being a councillor.

Explanation.-The expression ``municipal officer" includes the

<sup>17</sup> Sub-section (2) was substituted by Guj. 1 of 1979, s.8.

<sup>18</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

<sup>19</sup> Same as 18



Transport Manager appointed under section 40 and any person appointed to act for the Transport Manager under section 41.

(a) shall occupy the same subject to such conditions and terms as may, generally or in special cases, be prescribed by the Corporation, and

(b) shall, notwithstanding anything contained in any law for the time being in force, vacate the same on his resignation, dismissal, removal or retirement from the service of the Corporation or whenever the Commissioner, with the approval of the Corporation, thinks it necessary and expedient to require him to do so.

(2) If any person who is bound or required under sub-section (1) to vacate any premises fails to do so, the Commissioner may order such person to vacate such premises and may take such measures as will prevent him from remaining on or again entering on the premises.

(3) With reference to a municipal officer or servant appointed under Chapter XX. the provisions of this section shall apply as if for the word "Commissioner" the words "Transport Manager" had been substituted:

<sup>20</sup>[**60A. Provident Fund to be deposited in Government Treasury.**

**Provident Fund to  
be deposited in  
Government  
Treasury**

(1) where the Corporation has established a provident fund for the benefit of any of its officers and servants, such fund shall, notwithstanding anything contained in any law for the time being in force, be deposited in the State Government treasury in accordance with such directions as the State Government may, from time to time, by an order in writing give and thereupon,-

(i) the subscriber to the fund shall be entitled to interest on the balance in his provident fund account at the same rate, at which the State Government servant is for the time being entitled to on the balance in his provident fund account, and

(ii) the rules for the time being in force relating to the limits of withdrawals from the provident fund as applicable to such Government servant shall, so far as may be, apply to the subscriber.

(2) Nothing in this section shall apply to a provident fund established by the corporation to which the Employees' Provident Funds Act, 1952 ( XIX of 1952) applies.]

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<sup>20</sup> Section 60A was inserted by Guj. 11 of 1979, s. 2. Sch., Sr. No. 3.