

The Chemical Weapons Convention Appeals Rules, 2005

TREATY

India

The Chemical Weapons Convention Appeals Rules, 2005

Rule

THE-CHEMICAL-WEAPONS-CONVENTION-APPEALS-RULES-2005 of 2005

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1671.

G.S.R. 391(E).- In exercise of the powers conferred by sub-section (1), read with clauses (d), (e) and (f) of sub-section (2) of section 56 and section 50 of the Chemical Weapons Convention Act, 2000 (34 of 2000), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.-

(1) These rules may be called the Chemical Weapons Convention Appeals Rules, 2005. (2) They shall come into force on the 1st day of July, 2005.

2. Definitions.-

(1) In these rules, unless the context otherwise requires, -(a) Act means the Chemical Weapons Convention Act, 2000, (34 of 2000); (b) Form means a form appended to these rules; (c) National Authority means the National Authority for Chemical Weapons Convention established under sub-section (1) of section 6 of the Act; (d) words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Appeal.-

(1) Any person aggrieved by any direction of the National Authority issued under section 10 of the Act, may, within a period of thirty days from the receipt of such direction, prefer an appeal to the Central Government. (2) No appeal shall be admitted by the Central Government if it is preferred after the expiry of the period specified under sub-rule (1): Provided that an appeal may be admitted after the expiry of the period specified in sub-rule (1), if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the said specified period.

4. Form of appeal.-

(1) An appeal to the Central Government shall be filed in Form A by the appellant in person or be sent by registered post with acknowledgement duly addressed to the Joint Secretary (Chemicals) in the Government of India, Department of Chemicals and Petrochemicals, Shastri Bhawan, New Delhi. (2) The appellant shall attach to and present with his appeal a receipt slip in Form B which shall be signed by the officer authorized on behalf of the Central Government under sub-rule (1), receiving the appeal, in acknowledgement of the receipt of the appeal.

5. Presentation and scrutiny of appeal.-

(1) The officer authorized under sub-rule (1) of rule 4, shall endorse on every memorandum of appeal the date on which it is presented or deemed to have been presented under that rule and shall sign the endorsement. (2) If on scrutiny the appeal is found to be in order, it shall be registered and given a serial number.

6. Fee.-

Every appeal under rule 3 shall be accompanied by a fee of twenty-five thousand rupees to be remitted in the form of crossed demand draft drawn on a nationalized bank in favour of the Pay and Accounts Officer, Department of Chemicals and Petrochemicals payable at New Delhi.

7. Contents of appeal.-

Every appeal filed under rule 3 shall set forth concisely and under distinct heads the grounds for such appeal and such grounds shall be numbered consecutively.

8. Documents to be attached with the appeal.-

(1) Every appeal shall be accompanied by a paper book containing the following documents, namely:-(a) an attested copy of the direction against which the appeal is filed; (b) copies of the documents relied upon by the appellant and referred to in the appeal; and (c) an index to the documents. (2) The documents referred to in sub-rule (1) shall be attested by a legal practitioner or

by a gazetted officer of the Central Government or State Government, as the case may be, and each document shall be marked serially as Annexure A1, A2, A3, and so on.

9.

Procedure for disposal of appeal.-On receipt of memorandum of appeal under rule 5, the Central Government shall send the copies thereof to the National Authority calling upon it to make such reply as it may like to make within a period of one month from the date of receipt of the communication, and the National Authority, while furnishing reply to the Central Government, shall simultaneously endorse a copy of the reply to the appellant.(2)The Central Government shall send to the appellant the reply received from the National Authority under sub rule (1) for making such counter reply as he may like to make within a period of one month from the date of receipt of the communication and the appellant making counter reply shall send a copy to the National Authority.(3)The memorandum of appeal, the reply and counter reply referred to in sub-rules (1) and (2) shall constitute the records of the case.

10. Date and place of hearing of appeal.-

The Central Government shall communicate, before hearing the appeal, to the appellant or the National Authority or both the date and place of hearing of the appeal.

11. Hearing of appeal.-

On the date fixed for hearing, the appellant shall be heard in support of the appeal and the Central Government shall, then, hear the National Authority or its authorized representative against the appeal and in such case the appellant shall be entitled to reply.(2)In case the appellant does not appear in person or through an authorized representative when the appeal is called for hearing, the Central Government may dispose of the appeal on merits:Provided that where an appeal has been disposed of as provided above and the appellant appears afterwards and satisfies the Central Government that there was sufficient cause for his non-appearance, when the appeal was called for hearing, the Central Government shall, make an order setting aside the ex parte order and restore the appeal.

12.

Order by the Central Government.-The Central Government shall, after,-(a)considering the appeal preferred to it under rule 3;(b)considering the documents referred to in rule 7;(c)considering the reply and counter reply referred to in subrules (1) and (2) of rule 9;and(d)giving hearing under rule 11, pass such order or give such direction as may be necessary or expedient to, or in relation to, its order.

13. Order to be signed and dated.-

Every order of the Central Government shall be in writing, signed and dated by the officer who has been authorized by the Central Government to hear and dispose of the appeal.

14. Communication of orders to parties.-

The Central Government shall communicate, to the appellant and the National Authority, every order passed or an appeal either by hand delivery or by registered post free of cost. FORM A (See sub-rule (1) of rule 4) Appeal Under Section 50 Of The Chemical Weapons Convention Act, 2000 Title of the Case Index

S. No. Description of documents relied upon Appeal Page No.

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Signature of the appellant For use in Office Date of filing Or Date or receipt by post, Registration. No. Signature of Officer Between Applicant and Respondent Details of appeal:

1. Particulars of the appellant:

(i) Name of the appellant: (ii) Name of father/husband (iii) Age of the appellant (iv) Address for service of notices

2. Particulars of the direction issued by the National Authority under section 10 of the Chemical Weapons Convention Act, 2000 against which appeal is made:

The appeal is against Limitation the following order (i) Direction Order No. (ii) Date (iii) Passed by (iv) Subject in brief

3. Limitation:

The appellant further declares that the appeal is within the limitation period specified in rule 3 of the Chemical Weapons Convention (Appeal to the Central Government) Rules, 2004.

4. Facts of the case:

The facts of the case are given below:(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue, fact or other relevant information)

5. Details of the remedies exhausted:

The appellant declares that he has availed of all the remedies available to him, etc.(Give here chronologically the details of correspondence made and the outcome of such correspondence with reference to the Annexure numbers).

6. Relief (s) sought

In view of the facts mentioned in paragraph 4 above, the appellant prays for the following relief(s) (specify below the relief(s) sought explaining the ground for relief(s) and the legal provisions (if any) relied upon).

7. Interim order, if any prayed for:

Pending final decision on the appeal, the above-mentioned appellant seeks issue of the following interim order:(Give here the nature of the interim order prayed for with reasons).

8. In the event the memorandum of appeal being sent by registered post, it may be stated whether the appellant desires to have oral hearing at the admission stage and if so he shall attach a self addressed post card / inland letter through which intimation regarding the date of hearing could be sent too him.

9. Particulars of Bank Draft in respect of fee of appeal:

1. Name of the Bank on which drawn

2. Demand Draft No.

10. List of enclosures:

1.

2.

3.

4.

VERIFICATION I,(name of the appellant/authorized signatory) S/o, D/o, W/o
.....Age..... working as.....in the office of.....resident of..... hereby
verify that the contents of paras..... to..... are true to my personal knowledge and para.....
to..... believed to be true on legal advice and that I have not suppressed any material
fact. Signature of the appellant/Authorised signatory FORM B (See sub-rule (2) of rule 4) Receipt
Slip Receipt of the memorandum of appeal filed in the..... filed by
Shri/Smt/Kum.....working as.....residing atis hereby acknowledged. Joint
Secretary (Chemicals) Department of Chemicals and Petrochemicals Government of India