

Bihar Public Works Contracts Disputes Arbitration Tribunal Rules, 2009

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Rule

BIHAR-PUBLIC-WORKS-CONTRACTS-DISPUTES-ARBITRATION-TRIBUNAL RULES, 2009

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Bihar Public Works Contracts Disputes Arbitration Tribunal Rules, 2009 Published vide Notification No. Section -6/Niyam-07/2009/14470(S), dated 09.12.2009 Last Updated 31st January, 2020 Notification No. Section -6/Niyam-07/2009/14470(S). - In exercise of the powers conferred in the provision under Section 21 of the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008, the Governor of Bihar makes the following Rules -Part -1 1. Short title, Extent and Commencement.(1) These Rules may be called 'Bihar Public Works Contracts Disputes Arbitration Tribunal Rules, 2009.(2) It shall extend to the whole of the State of Bihar.(3) The Rules shall come into force from the date of issue.

2. Definitions.

(1) In these Rules, unless the subject or otherwise requires -(a)'Act' means Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008;(b)'Arbitration clause' means a clause in the works contract to submit present or future differences to Arbitration.(c)'State Government' means Government of Bihar.(d)'Chairman' means Chairman of the Tribunal.(e)'Member' means member of the Tribunal.(f)'Dispute' means any difference relating to any claim arising out of execution or non-execution of the whole or part of contract for works or services or both and include the rescinding thereof.(g)'Section' means Section of the Act.(h)'Tribunal' means Bihar Public Works Contracts Disputes Arbitration Tribunal constituted under the Act.(i)'Fees' means admissible/paid fees for the purpose of Arbitration.(j)'Form' means form appended to the Rules.(k)'Stamp' means any stamp prescribed by the State Government.Part - 2 3. Appointment of Chairman and Members of the Tribunal.(1) The Chairman and the Members of the Tribunal shall be appointed by the State

Government according to eligibility as prescribed under Section 3 of the Act.(2)The Chairman and the Members of theTribunal shall hold office for a term as prescribed under Section 4 of the Act.

4. Salary and allowances and other facilities to the Chairman and Members.

(1)The Chairman of the Tribunal at the time of his appointment whether serving or retired person, shall be entitled to last pay drawn and allowances, and also such pay and allowances, as revised from time to time in future;Provided that if the Chairman is a retired High Court Judge, he shall be entitled to same salary and allowances as admissible to a High Court Judge.(2)The Member of the Tribunal at the time of his appointment if serving or retired person shall be entitled to last pay drawn and allowances, and also such pay and allowances, as revised from time to time in future.(3)If the Chairman and Member of the Tribunal are retired person, they shall be entitled to salary etc., minus pension (including any portion of pension which may have been commuted).(4)On the expiry of the term of Chairman and Member, they shall be entitled to payment of leave salary in accordance with the provisions of the State Government equivalent to the leave earned by them, but this shall not exceed the maximum period of 300 days for the leave earned during their previous service and their tenure in theTribunal.

5. Leave.

(1)The Chairman shall be competent to sanction his leave under the Rules of the High Court, if he is a retired Judge of the High Court. If he is retired District and Sessions Judge, this power shall be vested under the Rules of the State Government.(2)The Chairman shall be competent authority to sanction the leave of the Member or the Members.

6. General Provident Fund.

(1)If the Chairman and Members are retired persons, they shall be entitled to the benefits available to them at the time of retirement.

7. Conveyance facility.

(1)The Chairman and the Members shall be entitled to conveyance.

8. Traveling allowance/House Rent allowance/Medical reimbursement-allowance.

(1)Traveling allowance and house rent allowance of the Chairman and the Members shall be in accordance with his pay scale according to the Traveling Allowance and House Rent Allowance Rules of the State Government:Provided that if the Chairman is a retired High Court Judge, he shall be entitled to same House rent allowance and Traveling allowance as admissible to a High Court Judge.(2)The Chairman and the Member shall be entitled to medical reimbursement allowance in accordance with the officers of the All India Services.

9. Other Provisions.

- The conditions of the service of the Chairman and Members for which no express provisions have been made in these Rules, the decision of the State Government shall be followed.

10. Power to relax Rules.

- The State Government shall have the power to amend or relax the Rules/Provisions in any matter. Part - 3 11. Ministerial Staff of the Tribunal. (1) One Secretary and other Gazetted Officers/non-Gazetted employees shall be appointed or deputed by the State Government for the Tribunal.

12. Secretary of the Tribunal.

(1) The State Government shall appoint/ depute the Secretary. (2) The State Government may depute Officers from Bihar Administrative Service or Judicial Services cadre or retired Officer of Bihar Administrative Service as Secretary, who may be a retired Joint Secretary/Officer in the rank of Joint Secretary of Bihar Government or Deputy Secretary/Officer in the rank of Joint Secretary of the State Government. (3) The appointment to the post of Secretary shall be for a period of three years from the date of appointment or till the age of 65 years, whichever is earlier. But in case of special experience and competence, the State Government shall have the power to relax the age. (4) Appointed/deputed officer to the post of Secretary shall be entitled to the same salary and allowances and other benefits which he was receiving before the appointment in the previous different post or as at the time of his retirement, subject to revision from time to time. (5) In the event of appointment of a retired person in the post of Secretary, he shall be paid salary and allowances etc. deduction his pension etc. (6) In the case of appointment of a retired Officer as Secretary, he may remain in the post of Secretary to the extent of maximum age of 65 years. But the State Government shall have the powers to relax the provision taking into notice special experience and competence.

13. Other conditions of service of the Secretary.

(1) The other conditions of service of Secretary shall be the same as that of the Officers of the equivalent rank in the State Government. If a retired person is appointed as Secretary, his service conditions shall be the same as was determined in the post held at the time of retirement.

14. Other Gazetted/Non-Gazetted Officers and fourth grade employees.

- The State Government shall depute the following employees in accordance with availability. (1) One Deputy Secretary, who shall be an Officer of the Secretariat Service Cadre. (2) One Under Secretary, who shall be of Secretariat Service Cadre. (3) In order to assist the Tribunal in its judicial work, one Deputy Registrar (Judicial) shall be posted who may be appointed from the serving officer of Bihar Judicial Service or Patna High Court or retired officer of the similar rank. (4) Four Upper Division

Clerks, among whom two shall be in the rank of Peshkar and two shall be in the rank of Stenographer.(5)Four Lower Division Clerks.(6)Six fourth grade employees.

15.

The State Government may depute the Officers/allocate the employees as prescribed under Rule 14.

16.

(1)The seniority and promotion or the basis of the other conditions of service of the officers and the employees, as prescribed under the above Rule 14, shall be the same as determined under his parent appointing authority as in respect of the officers or the employees of the equivalent rank by their appointing authority.(2)Officers and the employees, as prescribed under above Rule 14, shall be entitled to such salary etc. and other benefits, which were available in their parent appointing departments.

17.

(1)The Chairman and Member of the Tribunal shall be drawing and disbursing officer for the drawls of their own claims. The power of drawing and disbursing officer shall be vested in the Secretary in respect of the payment to the other Officers and employees of the Tribunal and in respect of other expenses.(2)All the payments in respect of the Tribunal shall be disbursed by the Tribunal itself.(3)The Tribunal shall be competent to hear such cases of Boards/Corporation as mentioned under the provisions of the Act of the purpose of adjudication by the Tribunal.

18. Discipline and control.

- All the Officers and the employees of the establishment of the Tribunal shall be under the supervision and control of the Chairman, but the Chairman if he so desires, may entrust this authority and responsibility to the Secretary.

19. Penal action.

(1)The State Government/appointing departments may take action against officers and the employees of the Tribunal under the provisions of the Bihar Government Servants (Classification, Control and Appeals) Rules, 2005 for any misdemeanor, but the Chairman shall have the powers to impose minor punishment.(2)If a retired person is appointed to the post of Secretary of the Tribunal, the State Government (Road Construction Department) may remove him.

20. Appeal.

- The Officers and the employees of the establishment may prefer an appeal against disciplinary proceedings on the recommendation of the Tribunal and through the Tribunal.Part - 4 21.The

conditions of furnishing the evidence, documents and fees in the Tribunal for the dispute/disputes fit to be referred under Section 9 sub-section (1), shall be the same as prescribed under Arbitration and Conciliation Act, 1996 or as determined by the State Government from time to time.