

The National Green Tribunal (Manner of Appointment of Judicial and Expert Members, Salaries, Allowances and other Terms and Conditions of Service of Chairperson and other Members and Procedure for Inquiry) Rules, 2010

UNION OF INDIA

India

The National Green Tribunal (Manner of Appointment of Judicial and Expert Members, Salaries, Allowances and other Terms and Conditions of Service of Chairperson and other Members and Procedure for Inquiry) Rules, 2010

Rule

THE-NATIONAL-GREEN-TRIBUNAL-MANNER-OF-APPOINTMENT-OF- of 2010

- Published on 26 November 2010
- Commenced on 26 November 2010
- [This is the version of this document from 26 November 2010.]
- [Note: The original publication document is not available and this content could not be verified.]

The National Green Tribunal (Manner of Appointment of Judicial and Expert Members, Salaries, Allowances and other Terms and Conditions of Service of Chairperson and other Members and Procedure for Inquiry) Rules, 2010Published vide Notification New Delhi, the 26th November, 2010Ministry of Environment and ForestsG.S.R. 927(E). - In exercise of the powers conferred by clauses (e), (f) and (g) of (2) of Section 35 of the National Green Tribunal Act, 2010 (19 of 2010), the Central Government hereby makes the following rules, namely :-

Chapter I Preliminary

1. Short title and commencement.

(1)These rules may be called the National Green Tribunal (Manner of Appointment of Judicial and

Expert Members, Salaries, Allowances and other Terms and Conditions of Service of Chairperson and other Members and Procedure for Inquiry) Rules, 2010.(2)These rules shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1)In these rules, unless the context otherwise requires,-(a)"Act" means the National Green Tribunal Act, 2010 (19 of 2010);(b)"Section" means a Section of the Act;(c)"Tribunal" means the National Green Tribunal established under Section 3 of the Act.(2)The words and expression used and not defined in these rules, but defined in the Act shall have the same meanings respectively assigned to them in the Act.

Chapter II

Manner of Appointment of Judicial Members And Expert Members

3. Selection Committee.

- The Judicial Members and Expert Members of the Tribunal shall be appointed by the Central Government on the recommendation of a Selection Committee comprising of the following, namely :-

- | | |
|---|--------------|
| (a) Sitting Judge of the Supreme Court to be nominated by the Chief Justice of India in consultation with the Minister of Law and Justice | Chairperson; |
| (b) Chairperson of the Tribunal | Member; |
| (c) Secretary to the Government of India in the Ministry of Environment and Forests | Member; |
| (d) Director, Indian Institute of Technology, Kanpur | Member; |
| (e) Director, Indian Institute of Management, Ahmadabad | Member; |
| (f) President, Centre for Policy Research, New Delhi | Member. |

4. Method of recruitment.

- The method of recruitment of the Expert Member shall be by direct recruitment on Contract basis :Provided that any person in the service in the Government or Autonomous bodies or Statutory bodies or Universities may opt for appointment either by direct recruitment or on deputation basis :Provided further that no person shall be appointed on deputation, unless he holds an analogous posts on regular basis or a post which is one level below that of analogous post.

5. Procedure for inviting and processing of applications.

(1)The Central Government shall invite application for the appointment of Judicial Members and Expert Members from the persons having qualifications specified under Section 5 through an

advertisement published on all India basis : (2) The Chairperson or a Member of the Selection Committee may nominate an eligible candidate of national or international repute to the Central Government. (3) The applications or nominations received under sub-rule (1) or sub-rule (2), as the case may be, shall be screened and shortlisted, if necessary, by the Central Government. (4) The Screening Committee while screening the applications shall ensure that the persons shortlisted for interview possess higher qualifications and experience as specified under Section 5 of the Act. (5) The shortlisted candidates shall be called to appear before the Selection Committee for interview.

6. Declaration of financial or other interest.

- Every person, on his appointment as the Chairperson or the Judicial Member or the Expert Member, as the case may be, shall give a declaration in Form appended to these rules, to the satisfaction of the Central Government, that he does not have any such financial or other interests as is likely to affect prejudicially his functions as such Chairperson or the Judicial Member or the Expert Member, as the case may be.

Chapter III

Salaries, Allowances And Conditions of service of chairperson, Judicial Members And Expert Members

7. Salary and allowances.

(1) (a) The Chairperson shall be entitled to amortality salary and to such allowances as are admissible to a sitting judge of the Supreme Court; (b) the Judicial Member shall be entitled to a monthly salary and to such allowances as are admissible to a sitting judge of a High Court; and (c) the Expert Member shall be entitled to a monthly salary and to such allowances as are admissible to a Secretary to the Government of India : Provided that in case a person appointed as the Chairperson or a Member, as the case may be, is in receipt of any pension, the pay of such person shall be reduced by the gross amount of pension drawn by him : Provided further that the Chairperson or a Member, as the case may be, shall be entitled to draw allowances on the original basic pay before such fixation of pay. (2) Deputation from parent service on appointment. - An Expert Member who on the date of his appointment to the Tribunal, was in service under the Central Government or a State Government, can opt for appointment either by direct recruitment or on deputation basis and in the case of a sitting Judge of the Supreme Court or a High Court who is appointed as the Chairperson or the Judicial Member, as the case may be, his service in the Tribunal shall be treated as actual service within the meaning of sub-clause (i) of clause (b) of paragraph 11 of Part D of the Second Schedule to the Constitution.

8. Leave.

(1) A person, on appointment in the Tribunal as a Chairperson, a Judicial Member and an Expert Member shall be entitled to leave as follows : (i) earned leave at the rate of fifteen days for every

completed calendar year of service;(ii)half pay leave on medical certificate or on private affairs at the rate of twenty days in respect of each completed year of service and the leave salary for half pay leave shall be equivalent to half of the leave salary admissible during the earned leave;(iii)leave on half pay can be commuted to full pay leave at the discretion of the Chairperson or Judicial Member or Expert Member, as the case may be, provided it is taken on medical grounds and is supported by a medical certificate from the competent medical authority;(iv)extraordinary leave without pay and allowances upto a maximum period of one hundred eighty days in one term of office.(2)If the Chairperson or a Judicial Member or an Expert Member, as the case may be, is unable to enjoy full vacation on account of his occupation with the Tribunal, he shall be entitled to add the unenjoyed period of vacation to the leave account.Explanation. - For the purpose of this sub-rule "vacation" means vacation of thirty days in each calendar year observed by the Tribunal.(3)On the expiry of the term of his office in the Tribunal, the Chairperson or a Judicial Member or an Expert Member, as the case may be, shall be entitled to receive cash equivalent of leave salary in respect of the earned leave standing to his credit, subject to the condition that the maximum of leave encashed under this sub-rule shall not in any case exceed three hundred days.(4)The Chairperson or a Judicial Member or an Expert Member, as the case may be, shall be entitled to receive the dearness allowance as admissible on the leave salary under sub-rule (2) at the rates in force on the date of the relinquishment of the office in the Tribunal.(5)Leave sanctioning authority. - The Chairperson shall be the authority competent to sanctioning leave to a Judicial Member or an Expert Member and the President shall be the authority competent to sanction leave to the Chairperson.

9. Pension, Gratuity or Provident fund.

(1)In case a serving judge of the Supreme Court or a High Court or a person in the service of the Government is appointed to the post of the Chairperson or Judicial Member or an Expert Member, as the case may be, the service rendered in the Tribunal shall count for pension, to be drawn in accordance with the rules of the service to which he belongs, and he shall also be governed by the provisions of the General Provident Fund (Central Services) Rules, 1960.(2)In all other cases, the Member shall be governed by the provision of the Contributory provident Fund (India) Rules, 1962.(3)Additional pension and gratuity shall not be admissible for service rendered in the Tribunal.

10. Travelling Allowance.

(1)The Chairperson, while on tour as on transfer (including the journey undertaken to join the Tribunal or on the expiry of his term with the Tribunal to proceed to his home town) shall be entitled to the travelling allowances, daily allowance, transportation of personal effects and other similar matters at the same scales and the same rates as admissible to a Judge of the Supreme Court under the relevant rules governing travelling allowances.(2)The Judicial Member while on tour as on transfer (including the journey undertaken to join the Tribunal or on the expiry of his term with the Tribunal to proceed to his home town) shall be entitled to the travelling allowances, daily allowance, transportation of personal effects and other similar matters at the same scales and the same rates as admissible to a Judge of the High Court under the relevant rules governing travelling allowances.(3)The Expert Member while on tour as on transfer (including the journey undertaken to join the Tribunal or on the expiry of his term with the Tribunal to proceed to his home town) shall

be entitled to the travelling allowances, daily allowance, transportation of personal effects and other similar matters at the same scales and the same rates as admissible for an officer of Group 'A' service of the Central Government under the relevant rules governing travelling allowances.

11. Leave Travel Concession.

- The Chairperson, a Judicial Member and an Expert Member shall be entitled to leave travel concession at the same rate, and at the same scales and on the same conditions as are admissible to a Group 'A' officer of the Central Government drawing an equivalent pay.

12. Accommodation.

- The Chairperson, a Judicial Member and an Expert Member shall have the option of claiming house rent allowance at the rate of thirty per cent of the basic pay drawn :Provided that he shall not be eligible for house rent allowance in case he is declared eligible for General Pool Residential Accommodation in Delhi and occupy such a Government accommodation allotted to him.

13. Facility of conveyance.

- The Chairperson, a Judicial Member and an Expert Member shall be entitled to the facility of staff car for journeys for official and private purposes in accordance with the Staff Car Rules of the Government of India.

14. Facilities for medical treatment.

- The Chairperson, a Judicial Member and an Expert Member shall be entitled to medical treatment and hospital facilities as provided in the Contributory Health Service Scheme Rules, 1954 and in places where the Central Health Services Scheme is not in operation, the Chairperson, a Judicial Member and an Expert Member shall be entitled to the facilities as provided in the Central Services (Medical Attendance) Rules, 1944.

15. Telephone facility, official meetings and entertainment expenses.

- The Chairperson and a Judicial Member and an Expert Member shall be eligible for telephone facilities, official meetings and entertainment expenses as admissible to a Group 'A' officer of the Central Government drawing an equivalent pay.

16. Conditions of service of sitting Judge of Supreme Court or a Judge of a High Court appointed as Chairperson or Judicial Member.

- Notwithstanding anything contained in these rules, where a sitting judge of the Supreme Court or a Chief Justice of a High Court is appointed as the Chairperson or a Judicial Member of the Tribunal, as the case may be, the service conditions as contained in the Supreme Court Judges (Conditions of

Service) Act, 1958 or the High Court Judges (Conditions of Service) Act, 1954, as the case maybe, and the rules made thereunder shall apply to him.

17. Powers to relax rules.

- The Central Government shall have power to relax the provisions of this chapter in respect of any class or categories of persons.

18. Residuary provisions.

- Matter relating to the terms and conditions of service of the Chairperson or a Member, as the case may be, with respect to which no express provision has been made under these rules, shall be referred by the Tribunal to the Central Government for its decision.

Chapter IV

Procedure For Inquiry of Charges Against a Chairperson or a Judicial Member or an expert member of Tribunal Under Sub-Sections (4) and (5) of Section 10

19. Institution of inquiry.

- The Central Government shall institute an inquiry of the charges against the Chairperson or a Judicial Member or an Expert Member of the Tribunal under Sub-section (4) or Sub-section (5) of Section 10 of the Act on receipt of written complaint.

20. Committee for investigation of complaints.

(1) If a written complaint alleging any definite charge of misbehaviour or incapacity to perform the functions of the office in respect of the chairperson or a Judicial Member or an Expert Member is received by the Central Government, it shall make a preliminary scrutiny of such complaint. (2) If, on preliminary scrutiny, the Central Government considers it necessary to investigate into the allegation, it shall place the complaint together with supporting material as may be available, before a Committee consisting of the following officers to investigate into the charges made in the complaint, namely :-

- | | |
|---|---------------|
| (i) Cabinet Secretary | — Chairperson |
| (ii) Secretary, Ministry of Environment and Forests | — Member |
| (iii) Secretary, Department of Legal Affairs, Ministry of Law and Justice | — Member |

(3) The Committee shall devise its own procedure and method of investigation which may include recording of evidence of the complainant and collection of material evidence relevant to the inquiry which may be conducted by a Judge of the Supreme Court under these rules. (4) The Committee shall

submit its findings to the President as early as possible within a period that maybe specified by the President in this behalf.

21. Judge to conduct inquiry.

(1) If on the receipt of the findings of the Committee, the President is of the opinion that there are reasonable grounds for making an inquiry into the truth of any imputation of misbehaviour of incapacity of the chairperson or a Judicial or an Expert Member, he shall make a reference to the Chief Justice of India requesting him to nominate a Judge of the Supreme Court to conduct the inquiry. (2) The President shall, by order, appoint the Judge of the Supreme Court nominated by the Chief Justice of India for the purpose of conducting the inquiry. (3) Notice of appointment of a Judge under sub-rule (2) shall be given to the Member concerned. (4) The President shall forward to the Judge a copy of-(i) the articles of charges against the Member concerned or the statement of imputations; (ii) the statement of witnesses, if any; and (iii) material documents relevant to the inquiry. (5) The Judge appointed under sub-rule (2) shall complete the inquiry within such time or further time as may be specified by the President. (6) The Member concerned shall be given a reasonable opportunity of presenting a written statement of defence within such time as may be specified in this behalf by the Judge. (7) Where it is alleged that the Member concerned is unable to discharge the duties of his office efficiently due to any physical or mental incapacity and the allegation is denied, the Judge may arrange for the medical examination of the Member by such Medical Board as may be appointed for the purpose by the President and the Member concerned shall submit himself to such medical examination within the time specified in this behalf by the Judge. (8) The Medical Board shall undertake such medical examination of the Member as may be considered necessary and submit a report to the Judge stating therein whether the incapacity is such as to render the Member unfit to continue in office. (9) If the Member refuses to undergo such medical examination as considered necessary by the Medical Board, the Board shall submit a report to the Judge stating therein the examination which the Member has refused to undergo, and the Judge may, on receipt of such report, presume that the Member suffers from such physical or mental incapacity as is alleged against the Member. (10) The Judge may, after considering the written statement of the Member and the Medical Report, if any, amend the charges referred to in clause (i) of sub-rule (4) and in such a case, the Member shall be given a reasonable opportunity of presenting a fresh written statement of defence. (11) The Central Government shall appoint its officer or an advocate to present the case against the Member. (12) Where the Central Government has appointed an advocate to present its case before the Judge, the Member concerned shall also be allowed to present his case by an advocate chosen by him.

22. Application of the Departmental Inquiries (Enforcement of Witness and Production of Documents) Act, 1972, to inquiries under these rules.

- The provisions of the Departmental Inquiries (Enforcement of Witness and Production of Documents) Act, 1972 (18 of 1972), shall apply to the inquiries made under these rules as they apply to departmental inquiries.

23. Powers of Judge.

- The Judge shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and shall have power to regulate his own procedure including the fixing of places and times of his inquiry.

24. Suspension of Judicial Member.

- Notwithstanding anything contained in rule 6 and without prejudice to any action being taken in accordance with the said rule, the President, keeping in view the gravity of charges, may suspend the Judicial Member of the Tribunal against whom a reference has been made to the Supreme Court.

25. Subsistence Allowance.

- The payment of subsistence allowance to a Member under suspension shall be regulated in accordance with the rules and orders for the time being applicable to a Secretary to the Government of India.

26. Inquiry Report.

- After the conclusion of the investigation, the Judge shall submit his report to the President stating therein his findings and the reasons thereof on each of the articles of charges separately with such observations on the whole case as he thinks fit. Form (See rule 6) Declaration against acquisition of any adverse financial or other interest I, having been appointed as the Chairperson/Judicial/Expert Member (cross out portion not applicable) of the National Green Tribunal, do solemnly affirm and declare that I do not have, nor shall have in future any financial or other interest which is likely to affect prejudicially my functioning as the Chairperson/Judicial/Expert Member (cross out portion not applicable) of the National Green Tribunal. Dated : Place : (Name of the Chairperson/Judicial/Expert Member) National Green Tribunal