

# **The Administrative Tribunals Act, 1985\***

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### **The Administrative Tribunals Act, 1985\***

**[No. 13 of 1985]**

An Act to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation <sup>1</sup>[or society] owned or controlled by the Government <sup>1</sup>[in pursuance of Article 323-A of the Constitution] and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows: -

\* **Published in the Gazette of India Extraordinary, dated the 27th February, 1985**Provisions relating to Central Administrative Tribunal come into force with effect from the 1st July, 1985 vide GSR No. 527 (E), dated the 1st July, 1985.

**1. Inserted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January 1986.**

## **CHAPTER I**

### **Preliminary**

**1. Short title, extent and commencement. –**

(1) This Act may be called the Administrative Tribunals Act, 1985.

(2) It extends, -

(a) In so far as it relates to the Central Administrative Tribunal, to the whole of India;

(b) In so far as it relates to Administrative Tribunals for States, to the whole of India, except the State of Jammu and Kashmir.

(3) The provisions of this Act, in so far as they relate to the Central Administrative Tribunal, shall come into force on such date as the Central Government may, by notification, appoint.

(4) The provisions of this Act, in so far as they relate to an Administrative Tribunal for a State, shall come into force in a State on such date as the Central Government may, by notification, appoint.

**2. Act not to apply to certain persons. -**The provisions of this Act shall not apply to-

(a) Any member of the naval, military or air forces or of any other armed forces of the Union;

- <sup>1</sup>(b) Deleted;
- (c) Any officer or servant of the Supreme Court or of any High Court <sup>2</sup>[or courts subordinate thereto];
- (d) Any person appointed to the secretarial staff of either House of Parliament or to the secretarial staff of any State Legislature or a House thereof or, in the case of a Union Territory having a Legislature, of that Legislature.

**1. Deleted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Deemed to have been deleted with effect from the 1st of November, 1985.**

**2. Inserted vide The Administrative Tribunal (Amendment) Act, 1987 (No. 51 of 1987). Takes effect from the 22nd December, 1987.**

**3. Definitions.** -In this Act, unless the context otherwise requires,

<sup>1</sup>(a) “Administrative Member” means a Member of a Tribunal who is not a judicial member within the meaning of Clause (i);

<sup>2</sup>(aa) “Administrative Tribunal”, in relation to a State, means the Administrative Tribunal for the State or, as the case may be, the Joint Administrative Tribunal for that State and any other State or States;

(b) “Application” means an application made under Section 19;

(c) “Appointed day”, in relation to a Tribunal, means the date with effect from which it is established, by notification, under Section 4;

(d) “Appropriate Government” means, -

(i) In relation to the Central Administrative Tribunal or a Joint Administrative Tribunal, the Central Government;

- (ii) In relation to a State Administrative Tribunal, the State Government;
- (e) “Bench” means a Bench of a Tribunal;
- (f) “Central Administrative Tribunal” means the Administrative Tribunal established under sub-section (1) of Section 4;
- (g) “Chairman” means the Chairman of a Tribunal;
- (h) “Joint Administrative Tribunal” means an Administrative Tribunal for two or more States established under sub-section (3) of Section 4;
- <sup>1</sup>(j) “Judicial Member” means a Member of a Tribunal appointed as such under this Act, and includes the Chairman or a Vice-Chairman who possesses any of the qualifications specified in sub-section (3) of Section 6;
- <sup>3</sup>(ia) “Member” means a Member (whether Judicial or Administrative) of a Tribunal and includes the Chairman and a Vice-Chairman;
- (j) “Notification” means a notification published in the Official Gazette;
- (k) “Post” means a post within or outside India;
- (l) “Prescribed” means prescribed by rules made under this Act;
- (m) “President” means the President of India;
- <sup>4</sup>(n) Deleted;
- (o) “Rules” means rules made under this Act;

- (p) “Service” means service within or outside India;
- (q) “Service matters”, in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or as the case may be, of any corporation <sup>5</sup>[or society] owned or controlled by the Government, as respects-
  - (i) Remuneration (including allowances), pension and other retirement benefits;
  - (ii) Tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
  - (iii) Leave of any kind;
  - (iv) Disciplinary matters; or
  - (v) Any other matter whatsoever;
- (r) “Service rules as to redressal of grievances”, in relation to any matter, means the rules, regulations, orders or other instruments or arrangements as in force for the time being with respect to redressal otherwise than under this Act, or any grievances in relation to such matters;
- <sup>3</sup>(rr) “Society” means a society registered under the Societies Registration Act, 1860 (21 of 1960), or under any corresponding law for the time being in force in a State ];
- (s) “Supreme Court” means the Supreme Court of India;
- (t) “Tribunal” means the Central Administrative Tribunal or a State administrative Tribunal or a Joint Administrative Tribunal;

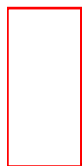


(u) “Vice-Chairman” means the Vice-Chairman of a Tribunal.

**EXPLANATION.**-In the case of a Tribunal having two or more Vice-Chairmen, references to the Vice-Chairman in this Act shall be construed as a reference to each of those Vice-Chairmen.



1. **Inserted** **vide The Administrative Tribunals (Amendment) Act, 1986**
2. **Renumbered** **(No. 19 of 1986). Takes effect from the 22nd January, 1986.**



3. **Substituted** **vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19**
4. **Deleted** **of 1986) and takes effect from the 22nd January, 1986.**
5. **Inserted**

## GOVERNMENT OF INDIA'S NOTIFICATIONS

(1) **‘Appointed day’ under Sec. 3 (c), 1-11-1985.**-In exercise of the powers conferred by sub-section (1) of Section 4 of the Administrative Tribunals Act, 1985 (13 of 1985) and in supersession of the Notification No. GSR 667 (E), dated the 20th August, 1985, the Central Government hereby establishes the Central Administrative Tribunal with effect from the 1st day of November, 1985, which shall be the ‘appointed day’ within the meaning of clause (c) of Section 3 of the Act.

[G.I., Dept. of Per. & Trg., Notification No. A-11019/13/85-AT, dated the 28th September, 1985, published as GSR No. 764 (E) in Gazette of India, of the same date.]

(2) **Delhi, Allahabad, Bombay, Calcutta and Madras Benches.**-In exercise of the powers conferred by sub-section (7) of Section 5 of the Administrative Tribunals Act, 1985 (13 of 1985) and in supersession of the Notification of the Government of India in the Ministry of Personnel and Training, Administrative Reforms and Public Grievances and Pension f Department of Personnel and Training, Notification No. GSR 609 (E), dated the 26th July, 1985], Central Government hereby specifies-

- (1) **Delhi** as the place at which the Principal Bench and the Additional Bench I and Additional Bench

11 of the Central Administrative Tribunal shall ordinarily sit; and

(2) Allahabad, Bombay, Calcutta and Madras as the places at which the other Additional Benches of the Central Administrative Tribunal shall ordinarily sit.

[G.I., Dept. of Per. & Trg., Notification No. A-11019/31 (I)/85-AT, dated the 31st October, 1985, published as GSR No. 823 (E). in the Gazette of India, of the same date.]

(3) **Bangalore, Chandigarh and Guwahati Benches.**-In exercise of the powers conferred by sub-section (7) of Section 5 of the Administrative Tribunal Act, 1985 (13 of 1985) and in continuation of the Notification of the Government of India in the Ministry of Personnel and Training, Administrative Reforms and Public Grievances and Pension (Department of Personnel and Training), GSR No. 823 (E), dated the 31st October, 1985, the Central Government hereby specifies Bangalore, Chandigarh and Guwahati as the places at which the Benches of the Central Administrative Tribunal shall ordinarily sit with effect from the 3rd March, 1986.

[G.I., Dept. of Per. & Trg., Notification No. A-1 1019/31 (1)/85-AT, dated the 20th February, 1986, published as GSR No. 309 (E), in the Gazette of India, of the same date.]

(4) **Cuttack, Jabalpur, Jodhpur and Patna Benches.**-In exercise of the powers conferred by sub-section (7) of Section 5 of the Administrative Tribunals Act, 1985 (13 of 1985) and in continuation of the notification of the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), GSR No. 309 (E), dated the 20th February, 1986, the Central Government hereby specifies Cuttack, Jabalpur, Jodhpur and Patna as the places at which the Benches of the Central Administrative Tribunal shall ordinarily sit with effect from the 30th June, 1986.

[G.I., Dept. of Per. & Trg., Notification No. A-1 1019/31 (I)/85-AT, dated the 25th June, 1986, published as GSR No. 907 (E), in the Gazette of India, of the same date.]

(5) **Ahmedabad and Hyderabad Benches.**-In exercise of the powers conferred by sub-section (7) of Section 5 of the Administrative Tribunals Act, 1985 (13 of 1985) and in continuation of the notification of the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), GSR No. 908 (E), dated the 25th June, 1986, the Central Government hereby specifies Ahmedabad and Hyderabad as the places at which the Benches of the Central Administrative Tribunal shall ordinarily sit with effect from the 30th June, 1986.

[G.I Dept. of Per. & Trg., Notification No. A-1 1019/31 (I)/85-AT, dated the 27t June, 1986, published as GSR No. 920 (E), in the Gazette of India, of the same date.

**(6) Ernakulam Bench.**-In exercise of the powers conferred by sub section (7) of Section 5 of the Administrative Tribunals Act, 1985 (13 o 1985) and in continuation of the notification of the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), GSR No. 920 (E), dated the 27th June 1986, the Central Government hereby specifies Ernakulam as the place at which the Bench of the Central Administrative Tribunal shall ordinary sit with effect from the Ist September, 1988.

[G.I., Dept. of Per. & Trg., Notification No. A-1 1019/31 (I)/85-AT, dated the I September, 1988, published as GSR No. 896 (E), in the Gazette of India, of the same date.]

**(7) Lucknow and Jaipur Benches.** -In exercise of the powers conferred by sub-section (7) of Section 5 of the Administrative Tribunals Ac 1985 (13 of 1985) and in continuation of the notification of the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), No. 11019/31 (i)/85-A dated the Ist September, 1988, the Central Government hereby specifies Lucknow and Jaipur as the places at which the Bench of the Central Administrative Tribunal shall ordinarily sit.

[G.I. Dept of Per. & Trg. Notification No. A. 11019/31 (i)/85-AT, dated the 15 October, 1991, published as GSR No. 630 (E) in the Gazette of India, of the same date.]

## CHAPTER II

### Establishment of Tribunals and Benches thereof

#### 4. Establishment of Administrative Tribunals. –

(1) The Central Government shall, by notification, establish an Administrative Tribune to be known as the Central Administrative Tribunal, to exercise jurisdiction, powers and authority conferred on the Central Administrative Tribune by or under this Act.

(2) The Central Government may, on receipt of a request in this behalf from any State Government, establish, by notification, an Administrative Tribunal for the State to be known as the.....(Name of the State) Administrative Tribunal to exercise the jurisdiction, powers and authority conferred on the

Administrative Tribunal for the State by or under this Act.

(3) Two or more States may, notwithstanding anything contained in sub-section (2) and notwithstanding that any or all of those States has or have Tribunals established under that sub-section, enter into an agreement that the same Administrative Tribunal shall be the Administrative Tribunal for each of the States participating in the agreement, and if the agreement is approved by the Central Government and published in the Gazette of India and the Official Gazette of each of those States, the Central Government may, by notification, establish a Joint Administrative Tribunal to exercise the jurisdiction, powers and authority conferred on the Administrative Tribunals for those States by or under this Act.

(4) An agreement under sub-section (3) shall contain provisions as to the name of the Joint Administrative Tribunal, the manner in which the participating States may be associated in the selection of the Chairman, Vice-Chairman and other Members of the Joint Administrative Tribunal, the places at which the Bench or Benches of the Tribunal shall sit, the apportionment among the participating States of the expenditure in connection with the Joint Administrative Tribunal and may also contain such other supplemental, incidental and consequential provisions not inconsistent with this Act as may be deemed necessary or expedient for giving effect to the agreement.

<sup>1</sup>(5) Notwithstanding anything contained in the foregoing provisions of this section, or sub-section (1) of Section 5, the Central Government may, -

(a) With the concurrence of any State Government, designate, by notification, all or any of the Members of the Bench or Benches of the State Administrative Tribunal established for that State under sub-section (2) as members of the Bench or Benches of the Central Administrative Tribunal in respect of that State and the same shall exercise the jurisdiction, powers and authority conferred on the Central Administrative Tribunal by or under this Act;

(b) On receipt of a request in this behalf from any State Government, designate, by notification, all or any of the Members of the Bench or Benches of the Central Administrative Tribunal functioning in that State as the Members of the Bench or Benches of the State Administrative Tribunal for that State and the same shall exercise the jurisdiction, powers and authority conferred on the Administrative Tribunal for that State by or under this Act.

And upon such designation, the Bench or Benches of the State Administrative Tribunal or, as the case may be, the Bench or Benches of the Central Administrative Tribunal shall be deemed, in all respects, to be the Central Administrative Tribunal, or the State Administrative Tribunal for that State established under the provisions of Article 323-A of the Constitution and this Act.

(6) Every notification under sub-section (5) shall also provide for the apportionment between the State concerned and the Central Government of the expenditure in connection with the Members common to the Central Administrative Tribunal and State Administrative Tribunal and such other incidental and consequential provisions not inconsistent with this Act as may be deemed necessary or expedient. ]

**1. Inserted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986) and takes effect from the 22nd January, 1986.**

## **5. Composition of Tribunals and Benches thereof. –**

(1) Each Tribunal shall consist of a Chairman and such number of Vice-Chairmen <sup>1</sup>[and Judicial and Administrative Members] as the appropriate Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches thereof.

<sup>1</sup>(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.

<sup>2</sup>(3) Deleted.

(4) Notwithstanding anything contained in sub-section (1) <sup>2</sup>[ ], the Chairman-

<sup>1</sup>(a) May, in addition to discharging the functions of the Judicial Member or the Administrative Member of the Bench to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Administrative Member, of any other Bench];

(b) May transfer the Vice-Chairman or other Member from one Bench to another Bench;

<sup>1</sup>(c) May authorise the Vice-Chairman or the Judicial Member or the Administrative Member appointed to one Bench to discharge also the functions of the Vice-Chairman, or as the case may be, the Judicial Member or the Administrative Member of another Bench]; and

(d) May, for the purpose of securing that any case or cases which, having regard to the nature of the questions involved, requires or require, in his opinion or under the rules made by the Central Government in this behalf, to be decided by a Bench composed of more than <sup>1</sup>[two members] issue such general or special orders, as he may deem fit:

<sup>3</sup>[Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Administrative Member.]

<sup>4</sup>(5) Deleted.

(6) Notwithstanding anything contained in the foregoing provisions of this section, it shall be competent for the Chairman or any other Member authorised by the Chairman in this behalf to function as <sup>3</sup>[a Bench] consisting of a single Member and exercise the jurisdiction, powers and authority of the Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairman may by general or special order specify:

Provided that if at any stage of the hearing of any such case or matter it appears to the Chairman or such Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of <sup>3</sup>[two Members] the case or matter may be transferred by the Chairman or, as the case may be, referred to him for transfer to, such Bench as the Chairman may deem fit.

<sup>5</sup>[(7) Subject to the other provisions of this Act, the Benches of the Central Administrative Tribunal shall ordinarily sit at New Delhi (which shall be known as the Principal Bench), Allahabad, Calcutta, Madras, New Bombay and at such other places as the Central Government may, by notification, specify.

(8) Subject to the other provisions of this Act, the places at which the Principal Bench and other Benches of a State Administrative Tribunal shall ordinarily sit shall be such as the State Government may, by notification, specify. ]



**1. Substituted** vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). **Takes effect from the 1st November, 1985.**

**2. Deleted**



3. **Inserted** vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19
4. **Deleted** of 1986). Takes effect from the 1st November, 1985.
5. **Substituted**

## **GOVERNMENT OF INDIA'S ORDER**

**Constitution of Single Member Bench of the Tribunal to dispose of specified cases.**-In exercise of the powers conferred by sub-section (6) of Section 5 of the Administrative Tribunals Act, 1985, I, K. Madhava Reddy, Chairman, Central Administrative Tribunal, hereby authorise all the members of the Central Administrative Tribunal, to function as a Bench consisting of Single Member and to exercise the jurisdiction, powers and authority of the Tribunal in respect of such cases or class of cases as are specified below with effect from 1st May, 1988-

Cases relating to-

- (a) Change of date of birth while in service;
- (b) Posting/transfers;
- (c) Entry(s) in character rolls made otherwise than as a measure of penalty under Central Civil Services (Classification, Control and Appeal) Rules, 1965;
- (d) Allotment of and eviction from Government accommodation;
- (e) Fixation of pay;
- (f) Claims of medical reimbursement, leave, Joining Time, Leave Travel Concession and Overtime;
- (g) Crossing of Efficiency Bar;

- (h) Grant of Family Pension;
- (i) Grant or refusal to grant of advances/loans;
- (j) Stagnation increment(s);
- (k) Grant of passes to Railway employees;
- (l) Grant or refusal to grant or recovery of allowances;
- (m) Payment of interest on pensionary benefits.

2. All cases specified in para.1 above shall be posted for admission before a Single Member Bench. If the Single Member Bench is of the view that any such case is not fit for admission, it shall order such a case to be posted before a Bench of two Members.

3. All urgent matters for admission and interim orders which are moved for hearing during vacation shall be heard by a Vacation Bench which shall ordinarily consist of a Single Member. The Chairman may constitute a Bench of two Members also as a Vacation Bench. However, if the Single Member sitting as a Vacation Bench is of the view that any case is not fit for admission, he shall order such a matter to be posted before a Bench of two Members, immediately after the vacation.

4. Where for any reason, a Bench of more than two Members cannot be constituted, all urgent matters for admission and interim orders which are moved for hearing shall be heard by a Bench consisting of a Single Member. If the Single Member is of the view that any case is not fit for admission he shall make such interim orders, as he may deem fit and post, as soon as may be, the case before a Bench of two Members.

5. Notwithstanding anything contained in paras.1 to 4 above, if at any stage of hearing of any such case or matter, it appears to the Chairman or such Single Member that the case or matter is of such nature that it ought to be heard by a Bench consisting of two Members, they may refer the case or the matter to a Bench consisting of two Members subject to the proviso to sub-section (6) of Section 5 of the Administrative Tribunals Act, 1985.



6. Bench of a Single Member or a Bench of more than one Member, as the case may be, shall be constituted in the case of Principal Bench by the Chairman and in his absence by the Vice-Chairman of the Principal Bench and in case of other Benches by the Vice-Chairman of the respective Benches and in their absence by the Chairman.

[CAT, Principal Bench, New Delhi, Order No. 1/32/87-JA/2169 (A), dated the 21st March, 1988, circulated under G.I., Dept. of Per. & Trg., O.M. No. A. 11019/71/87-AT, dated the 16th May, 1988.]

**6. Qualifications for appointment as Chairman, Vice-Chairman or other Members. -**

(1) A person shall not be qualified for appointment as the Chairman unless he-

(a) Is, or has been, a Judge of a High Court; or

(b) Has, for at least two years, held the office of Vice-Chairman <sup>1</sup>[ ] ;

(c) Omitted.

(2) A person shall not be qualified for appointment as the Vice-Chairman unless he-

(a) Is, or has been, <sup>2</sup>[or is qualified to be, j a Judge of a High Court; or

(b) Has, for at least two years, held the post of a Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India; or

<sup>3</sup>[(bb) Has, for at least five years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; or]

(c) Has, for a period of not less than three years, held office as <sup>3</sup>[a Judicial Member or an Administrative Member].

<sup>4</sup>[(3) A person shall not be qualified for appointment as a Judicial Member unless he-

(a) Is, or has been, or is qualified to be, a Judge of a High Court; or

(b) Has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years.

(3-A) A person shall not be qualified for appointment as an Administrative Member unless he-

(a) Has, for at least two years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; or

(b) Has, for at least three years, held the post of a Joint Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India,

And shall, in either case, have adequate administrative experience. ]

(4) <sup>5</sup>[Subject to the provisions of sub-section (7), the Chairman, Vice-Chairman and every other Member of the Central Administrative Tribunal shall be appointed by the President.

(5) <sup>5</sup>[Subject to the provisions of sub-section (7), the Chairman, Vice-Chairman and every other Member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Governor of the concerned State.


(6) The Chairman, Vice-Chairman and every other Member of a Joint Administrative Tribunal shall, subject to the terms of the agreement between the participating State Governments published under sub-section (3) of Section 4, <sup>6</sup>[and subject to the provisions of sub-section (7)] be appointed by the President after consultation with the Governors of the concerned States.

7[(7) No appointment of a person possessing the qualifications specified in this section as the Chairman, a Vice-Chairman or a Member shall be made except after consultation with the Chief Justice of India.]


**EXPLANATION.** -In computing for the purposes of this section, the period during which a person has held any post under the Central or a State Government, there shall be included the period during which he has held any other post under the Central or a State Government (including an office under this Act) carrying the same scale of pay as that of the first mentioned post or a higher scale of pay.

 1. **Omitted** vide The Administrative Tribunals (Amendment) Act, 1987 (No. 51 of 1987). Takes effect from the 22nd December, 1987.

2. **Inserted**

 3. **Inserted** vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.

4. **Substituted**

 5. **Substituted** vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.

6. **Inserted**

7. **Substituted** vide The Administrative Tribunals (Amendment) Act, 1987 (No. 51 of 1987). Takes effect from the 22nd December, 1987.

7. **Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances. –**

(1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the appropriate Government may, by notification, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman, or, as the case may be, such one of the Vice-Chairmen as the appropriate Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

**8. Term of office. -<sup>1</sup>**[The Chairman, Vice-Chairman or other Member shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years:

Provided that no Chairman, Vice-Chairman or other Member shall hold office as such after he has attained, -

- (a) In the case of the Chairman or Vice-Chairman, the age of sixty five years, and
- (b) In the case of any other Member, the age of sixty-two years.

**1. Substituted vide The Administrative Tribunals (Amendment) Act, 1987 (No. 51 of 1987). Takes effect from the 22nd December, 1987.**

**9. Resignation and removal. –**

(1) The Chairman, Vice-Chairman or other Member may, by notice in writing under his hand addressed to the President, resign his office:

Provided that the Chairman, Vice-Chairman or other Member shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairman, Vice-Chairman or any other Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairman, Vice-Chairman or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those

charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairman, Vice-Chairman or other Member referred to in sub-section (2).

**10. Salaries and allowances and other terms and conditions of service of Chairman, Vice-Chairman and other Members.** -The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairman, Vice-Chairman and other Members shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairman, Vice-Chairman or other Member shall be varied to his disadvantage after his appointment.

**11. Provision as to the holding of offices by Chairman, on ceasing to be such Chairman, etc.** -On ceasing to hold office, -

(a) The Chairman of the Central Administrative Tribunal shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) The Chairman of a State Administrative Tribunal or a Joint Administrative Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman or Vice-Chairman or any other Member of the Central Administrative Tribunal or as the Chairman of any other State Administrative Tribunal or Joint Administrative Tribunal, but not for any other employment either under the Government of India or under the Government of a State;

(c) The Vice-Chairman of the Central Administrative Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman of that Tribunal or as the Chairman or Vice-Chairman of any State Administrative Tribunal or Joint Administrative Tribunal, but not for any other employment either under the Government of India or under the Government of a State;

(d) The Vice-Chairman of a State Administrative Tribunal or a Joint Administrative Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman of that Tribunal or as the Chairman or Vice-Chairman of the Central Administrative Tribunal or of any other State Administrative Tribunal or Joint Administrative Tribunal, but not for any other employment either under the Government of India or under the Government of a State;

(e) A Member (other than the Chairman or Vice-Chairman) of any Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman or Vice-Chairman of such Tribunal or as the Chairman, Vice-Chairman or other Member of any other Tribunal, but not for any other employment either under the Government of India or under the Government of a State;

(f) The Chairman, Vice-Chairman or other Member shall not appear, act or plead before any Tribunal of which he was the Chairman, Vice-Chairman or other Member.

**EXPLANATION.** -For the purposes of this section, employment under the Government of India or under the Government of a State includes employment under any local or other authority within the territory of India or under the control of the Government of India or under any corporation <sup>1</sup>[or society] owned or controlled by the Government.

1. Inserted vide The Administrative Tribunals (Amendment) Act, 1986(No. 19 of 1986). Takes effect from the 22nd January, 1986.

**12. Financial and administrative powers of the Chairman.** -The Chairman shall exercise such financial and administrative powers over the <sup>1</sup>[ ] Benches as may be vested in him under the rules made by the appropriate Government:

Provided that the Chairman shall have authority to delegate such of his financial and administrative powers as he may think fit to <sup>2</sup>[the Vice-Chairman or any officer of the Tribunal, subject to the condition that the Vice-Chairman or such officer], shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairman.

1. Deleted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.

2. Substituted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.

**13. Staff of the Tribunal. –**

(1) The appropriate Government shall determine the nature and categories of the officers and other

employees required to assist a Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

<sup>1</sup>[(I-A) The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Chairman.]

(2) The salaries and allowances and conditions of service of the officers and other employees of a Tribunal shall be such as may be specified by rules made by the appropriate Government.

**1. Inserted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.**

### **CHAPTER III**

#### **Jurisdiction, powers and authority of Tribunals**

#### **14. Jurisdiction, powers and authority of the Central Administrative Tribunal. –**

(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts [except the Supreme Court <sup>1</sup>( )] in relation to-

(a) Recruitment, and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) All service matters concerning-

(i) A member of any All India Service; or

(ii) A person [not being a member of an All India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) A civilian [not being a member of an All India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence;

And pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation <sup>2</sup>[or society] owned or controlled by the Government;

(c) All service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation <sup>2</sup>[or society] or other body, at the disposal of the Central Government for such appointment.

<sup>3</sup>[ **EXPLANATION.** -For the removal of doubts, it is hereby declared that references to “Union” in this sub-section shall be construed as including references also to a Union Territory]

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations <sup>2</sup>[or societies] owned or controlled by Government, not being a local or other authority or corporation <sup>2</sup>[or society] controlled or owned by a State Government:

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations <sup>1</sup>[or societies].

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation <sup>2</sup>[or societies] all the jurisdiction, powers and authority exercisable immediately before that date by all courts except the Supreme Court <sup>4</sup>( )] in relation to-


(a) Recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation <sup>2</sup>[or society]; and

(b) All service matters concerning a person [other than a person referred to in clause (a) or clause (b)]



of sub-section (1) ] appointed to any service or post in connection with the affairs of such local or other authority or corporation <sup>5</sup>[or society] and pertaining to the service of such person in connection with such affairs.

**1. Deleted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.**

 **2. Inserted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986) and takes effect from the 22nd January, 1986.**

**3. Deleted**

**4. Inserted by the said Act 19 of 1986 and deemed to have been inserted from the 1st November, 1985.**

**5. Inserted vide The Administrative Tribunals Amendment) Act, 1986 (No. 19 of 1986) and takes effect from the 22nd January, 1986.**

## **GOVERNMENT OF INDIA'S NOTIFICATIONS**

**(1) Tribunal not to interfere in penalty awarded in disciplinary proceedings.-**A number of cases have come to the notice where the CAT, though agreeing with the decision of the disciplinary authority to hold the charges against a delinquent Government servant as proved, have modified the quantum of penalty on their own discretion. The question whether the Tribunal could interfere with the penalty awarded by the competent authority on the ground that it is excessive or disproportionate to the misconduct proved, was examined by the Supreme Court in the case of Shri Parma Nanda v. State of Haryana and others [1989 (2) Supreme Court Cases 177] and the Court held that the Tribunal could exercise only such powers which the civil courts or the High Courts could have exercised by way of judicial review. The Supreme Court in that case further observed as under:

\* \* \*

\* \* \*

\* \* \*

The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made

under the proviso to Art. 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice, what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.

**One exception to this proposal:** There may be cases where the penalty is imposed under Clause (a) of the second proviso to Art. 311 (2) of the Constitution. Where the person without inquiry is dismissed, removed or reduced in rank solely on the basis of conviction by a criminal court, the Tribunal may examine the adequacy of the penalty imposed in the light of the conviction and sentence inflicted on the person. If the penalty impugned is apparently unreasonable or uncalled for, having regard to the nature of the criminal charge, the Tribunal may step in to render substantial justice. The Tribunal may remit the matter to the competent authority for reconsideration or by itself substitute one of the penalties provided under Clause (a).

2. Ministry of Agriculture, etc., are requested to bring the above ruling of the Supreme Court to the notice of all concerned authorities so that the same is appropriately referred to in all those cases where the question of quantum of penalty comes up before the CAT or Supreme Court by way of SLP or otherwise.

[G.I., Dept, of Per. & Trg., O.M. No. 1101 2/i/90-Estt. (A), dated the 28th February, 1990.]

**(2) CAT has no power to substitute its own discretion for that of the authority-Reiterated by the Supreme Court.** -With reference to GID (1) Above, in a recent judgment in the case of State Bank of India v. Samarendra Kishore Endow [1994 (1) SLR 516], the Supreme Court has reiterated the said ruling that a High Court or Tribunal has no power to substitute its own discretion for that of the authority.

2. In this judgment, the Supreme Court has observed as under-

On the question of punishment, learned Counsel for the respondent submitted that the punishment awarded is excessive and that lesser punishment would meet the ends of justice. It may be noticed that the imposition of appropriate punishment is within the discretion and judgment of the disciplinary authority. It may be open to the appellate authority to interfere with it but not to the High Court or to the Administrative Tribunal for the reason that the jurisdiction of that Tribunal is similar to the powers of the High Court under Article 226. The power under Article 226 is one of judicial review. It “is not an appeal

from a decision, but a review of the manner in which the decision was made”. In other words, the power of judicial review is meant “to ensure that the individual receives fair treatment and not to ensure that the authority, after according fair treatment, reaches on a matter which it is authorized by law to decide for itself a conclusion which is correct in the eyes of the Court.”

It would perhaps be appropriate to mention at this stage that there are certain observations in *Union Bank of India v. Tuisiram Patel* [AIR 1985 SC 1416], which, at first took appear to say that the Court can interfere where the penalty imposed is “arbitrary or grossly excessive or out of all proportion to the offence committed or not warranted by the facts and circumstances of the case or the requirements of that particular Government service.” It must, however, be remembered that Tulsiram Patel dealt with cases arising under proviso (a) to Article 311 (2) of the Constitution. Tuisiram Patel overruled the earlier decision of this Court in *Challappan* [AIR 1975 SC 221 (6)]. While holding that no notice need be given before imposing the penalty in a case dealt with under the said proviso, the Court held that if a disproportionate or harsh punishment is imposed by the disciplinary authority, it can be corrected either by the Appellate Court or by High Court. These observations are not relevant to cases of penalty imposed after regular inquiry.

3. Ministries/Departments are requested to bring the above ruling of the Supreme Court to the notice of all concerned so that the same is appropriately referred to in all cases where the question of quantum of penalty comes up before the CAT or Supreme Court by way of SLP or otherwise.

[G.I., Dept. of Per. & Trg., O.M. No. 11012/6/94-Estt. (A), dated the 28th March, 1994.]

**(3) CAI/Court has no power to direct promotion of a person, but can merely direct consideration/reconsideration.**-In terms of the procedure laid down on functioning of DPC, they should decide its own method and procedure for objective assessment of the suitability of the candidates, based on the evaluation of CRs of the officers. The Supreme Court in its judgment in the case of *State of Madhya Pradesh v. Shri Srikant Chapekhar* [JT 1992 (5) SC 638] has held as follows: -

“We are of the view that the Tribunal fell into patent error in substituting itself for the DPC. The remarks in the annual confidential report are based on the assessment of the work and conduct of the official/officer concerned for a period of one year. The Tribunal was wholly unjustified in reaching the conclusion that the remarks were vague and of general nature. In any case, the Tribunal out stepped its jurisdiction in reaching the conclusion that the adverse remarks were not sufficient to deny the respondent his promotion to the post of Deputy Director. It is not the function of the Tribunal to assess the service record of a Government servant, and order his promotion on that basis. It is for the DPC to evaluate the same and make recommendations based on such evaluation. This Court has repeatedly held that in a case where the Court/Tribunal comes to the conclusion that a person was considered for promotion or the consideration was illegal, then the only direction which can be given is to reconsider his case in accordance with law. It is not within the competence of the Tribunal, in the fact of the present case, to

have ordered deemed promotion of the respondent.”

2. From the above observations of the Supreme Court, it is clear that the Courts or Tribunals cannot direct promotion of a person, but can merely direct consideration/reconsideration of a person or a case in accordance with the law.

3. Ministries/Departments are requested to bring the above ruling of the Supreme Court to the notice of all concerned so that the same is appropriately brought to the notice of CAT/Court wherever such cases are coming up before them.

[G.I., Dept. of Per. & Trg., O. M. No. 22011/4/94-Estt. (D), dated the 28th June, 1994.]

**(4) Inclusion of the Corporations/Societies/other Authorities owned or controlled by Government within the purview of the CAT.**-In exercise of the powers conferred by sub-section (2) of Section 14 of the Administrative Tribunals Act, 1985 (13 of 1985), the Central Government hereby specifies the day noted against each as the date on and from which the provisions of sub-section (3) of Section 14 of the said Act shall apply to the Corporations or Societies and other Authorities mentioned in the Schedule below, being the Corporations or Societies and other Authorities owned or controlled by Government:

### SCHEDULE

Sl. No.	Name of the Corporation/'Society/other Authority		Day
1.	Central Board of Trustee constituted under the Employees Provident Funds and Miscellaneous Provisions Act, 1952.	Statutory Body	12-5-1986
2.	Employees State Insurance Corporation	Corporation	112-5-1986
3.	Central Board for Workers Education	Registered Society	12-5-1986
4.	National Labour Institute	Registered Society	12-5-1986

5.	National Council of Safety in Mines, Dhanbad	Registered Society	12-5-1986
6.	Council of Scientific and Industrial Research	Society	17-11-1986
7.	Central Social Welfare Board	An Authority controlled by Government	2-3-1987
8.	Indian Council of Agricultural Research	A Society controlled by Government	15-5-1987
9.	Sport Authority of India	-do-	17-7-1995

G.I., Dept. of Per. & Trg., Notification No. A-1 1019/16/86-AT, dated the 2nd May, 1986 and 31st October, 1986; No. A-1 1019/97/86-AT, dated the 6th February, 1987; No. A-1 1019/13/87-AT, dated the 20th April, 1987 and P-13023/5/94-AT, dated the 11th July, 1995, published in the Gazette of India, as GSR Nos. 730 (E), 1172 (E), 84 (El, 409 (E) and 542 (E) respectively. 1

## **15. Jurisdiction, powers and authority of State Administrative Tribunals. –**

(1) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts [except the Supreme Court <sup>1</sup>( )] in relation to-

(a) Recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;

(b) All service matters concerning a person [not being a person referred to in Clause (c) of this sub-section or a member, person or civilian referred to in Clause (b) of sub-section (1) of Section 14] appointed to any civil service of the State or any civil post under the State and pertaining to the service of

such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation <sup>2</sup>[or society] owned or controlled by the State Government;

(c) All service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in Clause (b), being a person whose services have been placed by any such local or other authority or corporation <sup>2</sup>[ or society] or other body as is controlled or owned by the State Government at the disposal of the State Government for such appointment.

(2) The State Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of subsection (3) to local or other authorities and corporations <sup>2</sup>[or societies] controlled or owned by the State Government:

Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations <sup>2</sup>[or societies].

(3) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation <sup>2</sup>[or society] all the jurisdiction, powers and authority exercisable immediately before that date by all courts except the Supreme Court <sup>1</sup>( ) in relation to-

(a) Recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation <sup>2</sup>[or society]; and

(b) All service matters concerning a person [other than a person referred to in Clause (b) of sub-section (1) of this section or a member, person or civilian referred to in Clause (b) of subsection (1) of Section 14] appointed to any service or post in connection with the affairs of such local or other authority or corporation <sup>2</sup>[or society] and pertaining to the service of such person in connection with such affairs.

(4) For the removal of doubts, it is hereby declared that the jurisdiction, powers and authority of the Administrative Tribunal for a State shall not extend to, or be exercisable in relation to, any matter in relation to which the jurisdiction, powers and authority of the Central Administrative Tribunal extends or is exercisable.



**1. Deleted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.**

**2. Inserted**

**16. Jurisdiction, powers and authority of a Joint Administrative Tribunal.** -A Joint Administrative Tribunal for two or more States shall exercise all the jurisdiction, powers and authority exercisable by the Administrative Tribunals for such States.

**17. Powers to punish for contempt.** -A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971), shall have effect subject to the modifications that-

(a) The references therein to a High Court shall be construed as including a reference to such Tribunal;

(b) The references to the Advocate-General in Section 15 of the said Act shall be construed, -

(i) In relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General; and

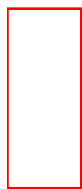
(ii) In relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established.

**18. Distribution of business amongst the Benches. -**

(1) Where <sup>1</sup>[any Benches of a Tribunal are constituted], the appropriate Government may, from time to time, by notification, make provisions as to the distribution of the business of the Tribunal amongst the <sup>2</sup>[ ] Benches and specify the matters which may be dealt with by each Bench.

(2) If any question arises as to whether any matter falls within the purview of the business allocated to a Bench of a Tribunal, the decision of the Chairman thereon shall be final.

**EXPLANATION.** -For the removal of doubts, it is hereby declared that the expression “matters” includes applications under Section 19.



**vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19**

**1. Substituted 1986). Takes effect from the 22nd January 1986.**

**2. Deleted**

### **GOVERNMENT OF INDIA’S NOTIEFICATION AND ORDER**

**(7) Jurisdiction of the Benches.** -Whereas the Principal Bench and the additional benches of the Central Administrative Tribunal have since been constituted:

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 18 of the Administrative Tribunals Act, 1985 (13 of 1985), the Central Government hereby directs that the Principal Bench and the additional benches specified in column (2) of the Table hereto annexed shall deal with all matters failing within the purview of the Central Administrative Tribunal within the territories specified against the Principal Bench and each of the additional benches in column (3) of the said Table:

Provided that nothing contained in this Notification shall debar the Principal Bench to entertain applications under Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987.

#### **TABLE**

Sl. No.	Bench	Jurisdiction of the Bench
(1)	(2)	(3)
1.	Principal Bench (New Delhi)	National Capital Territory of Delhi.



- |     |                  |   |
|-----|------------------|---|
| 2.  | Ahmedabad Bench  | State of Gujarat  |
| 3.  | Allahabad Bench  | State of Uttar Pradesh excluding the Districts mentioned against serial Number 4 Under the Jurisdiction of Lucknow Bench  |
| 4.  | Lukhnow Bench    | Districts of Lucknow, Hardoi, Kheri, Rai Bareilli, Sitapur, Unnao, Faizabad, Baharaich, Barabanki, Gonda, Pratapgarh and Sultanpur in the State of Utter Pradesh. |
| 5.  | Bangalore Bench  | State of Orissa.  |
| 6.  | Calcutta Bench   | State of Sikkim and West Bengal and the Union Territory of the Andaman and Nicobar Islands.   |
| 7.  | Chandigarh Bench | State of Jammu and Kashmir, Haryana, Himachal Pradesh and Punjab and the Union Territory of Chandigarh.   |
| 8.  | Cuttack Bench    | State of Orrisa.  |
| 9.  | Ernakulam Bench  | State of Kerala and the Union Territory of Lakshadweep.   |
| 10. | Guwahati Bench   | States of Assam, Manipur, Meghalaya, Nagaland, Tripura, Arunachal Pradesh and Mizoram.  |
| 11. | Hyderabad Bench  | State of Andhra Pradesh.  |
| 12. | Jabalpur Bench   | State of Madhya Pradesh.  |

13. Jodhpur Bench  
State of Rajasthan excluding the Districts mentioned against Serial Number 14 under the jurisdiction of Jaipur Bench
14. Jaipur Bench  
Districts of Ajmer, Alwar, Baran, Bhratpur, Bundi, Dausa, Dholpur, Jaipur Jhallwar, Jhunjhunu, Kotah, Sawar Madhopur, Sikar and Tonk in the State of Rajasthan .
15. Channai Bench  
State of Tamil Nadu and the Union Territory of Pondichery.
16. Mumbai Bench  
State of Maharashtra and Goa and the Union Territories of Dadra and Nagar Haveli and Daman and Diu.
17. Patna Bench  
State of Bihar.



G.I., Dept. of Per. & Trg., Notification No. A-11019/31 (2)/85-AT, dated the 26<sup>th</sup> July, 1985, published as GSR No. 610 (E), in the Gazette of India of the same date. Table as substituted from time to time including Notification No. A-11019/31/85-AT, dated the 18th August, 1994, published as GSR No. 646 (E), in the Gazette of India of the same date.]

**(2) Postal addresses of the Benches.** -A list indicating full addresses of the various Benches of the Tribunal is given below for the information of all concerned-

**1. Principal Bench, New Delhi**

Faridkot House, Copernicus Marg,  
NEW DELHI - 110 001

**2. Additional Bench, New Delhi**

Shastri Bhavan, NEW DELHI

**3. Ahmedabad Bench**

Opposite Sardar Patel Stadium,  
Navarangpura, AHMEDABAD - 380 009

**4. Allahabad Bench**

23-A, Thorn Hill Road,

Post Bag No. 013, ALLAHABAD - 211 001

**5. Lucknow Circuit Bench**

Gandhi Bhawan (Opp. Residency),

Gandhi Smarak Nidhi,

LUCKNOW - 266 001

**6. Bangalore Bench**

2nd Floor Commercial Complex (BDA),

Indira Nagar, BANGALORE - 560 038

**7. Mumbai Bench**

Gulestan Building,

No. 6, 3rd and 4th Floor, Prescott Road,

Near Mumbai Gymkhana Club (Fort),

MUMBAI - 400 001

**8. Calcutta Bench**

CGO Complex,

Nizams Place Compound,

2<sup>nd</sup> MSO Building

11<sup>th</sup> and 12<sup>th</sup> Floor,

134/4, A.J.C., Bose Road,

CALCUTTA - 700020

**9. Chandigarh Bench**

SCO NO. 102-103

Sector 34-A,

CHANDIGARH - 160022

**10.     Cuttack Bench**

Rakaswa Bhavan, 4<sup>th</sup> Floor,

CUTTACK - 753002

**11.     Ernakulam Bench**

Kandomlulthy Towers 5<sup>th</sup> and 6<sup>th</sup> Floor, Opp, Maharaja College,

M.G. Road,

Ernalulam,

COCHIN- 682001

**12.     Guwahati Bench**

Rakgarjh Road,

Off Shilong Road (Bhangagarh,)

Post Box No. 58,n GPO,

GUWAHATI - 781005

**13.     Hyderabad Bench**

New Insurance Building Complex,

6th Floor, Tilak Marg (Abids),

Post Box No. 07,

HYDERABAD - 500 001

**14.     Jabalpur Bench**

Caravs Building,

15, Civil Lines,

JABALPUR-482 001

**15. Jodhpur Bench**

House No, 69, Ist Polo (PAOTA),

Post Box No. 619,

JODHPUR-342 006

**16. Jaipur Circuit Bench**

C-42, Bhagat Watika,

Civil Lines, Raj Bhan Road,

JAIPUR – 302006

**17. Madras Bench**

Tamil Nadu Text Book Society

Building DPI Compound,

College Road, Nugambakkam,

CHENNAI- 600006

**18. Patna Bench**

88-A, B.M. Enterprises,

Shri Krishna Nagar,

PATNA - 800001

**CHAPTER IV**

**Procedure**

**19. Applications to Tribunals. –**

(1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

**Explanation.** -For the purposes of this sub-section, “order” means an order made-

(a) By the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation <sup>1</sup>[or society ] owned or controlled by the Government; or

(b) By an officer, committee or other body or agency of the Government or a local or other authority or corporation <sup>1</sup>[or society] referred to in Clause (a).

(2) Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) <sup>2</sup>[in respect of the filing of such application and by such other fees for the service or execution of processes, as may be prescribed by the Central Government].

<sup>2</sup>[(3) On receipt of an application under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, admit such application; but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons.]

(4) Where an application has been admitted by a Tribunal under subsection (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules.



**1. Inserted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January 1986.**

**2. Substituted**



**20. Applications not to be admitted unless other remedies exhausted. -**

- (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.
- (2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -
  - (a) If a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or
  - (b) Where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.
- (3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.

**21. Limitation. -**

- (1) A Tribunal shall not admit an application, -
  - (a) In a case where a final order such as is mentioned in Clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
  - (b) In a case where an appeal or representation such as is mentioned in Clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) The grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) No proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

The application shall be entertained by the Tribunal if it is made within the period referred to in Clause (a), or, as the case may be, Clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or subsection (2), an application may be admitted after the period of one year specified in Clause (a) or Clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

## **22. Procedure and powers of Tribunals. -**

(1) A Tribunal 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 subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.

(2) A Tribunal shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided on a perusal of documents and written representations and <sup>1</sup>[after hearing such oral arguments, as may be advanced].

(3) A Tribunal shall have, for the purposes of <sup>1</sup>[discharging its functions under this Act,] the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely: -

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Requiring the discovery and production of documents;
- (c) Receiving evidence on affidavits;
- (d) Subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872 (I of 1872), requisitioning any public record or document or copy of such record or document from any office;
- (e) Issuing commissions for the examination of witnesses or, documents;
- (f) Reviewing its decisions;
- (g) Dismissing a representation for default or deciding it ex parts;
- (h) Setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and
- (i) Any other matter which may be prescribed by the Central Government.

**1. Substituted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.**

**23. Right of applicant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers. -**

(1) A person making an application to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or a State Government or a local or other authority or corporation <sup>1</sup>[or society] to which the provisions of subsection (3) of Section 14 or sub-section (3) of Section 15 apply,

<sup>2</sup>[may authorize one or more legal practitioners or any of its officers to act as presenting officers and every person so authorized by it may present its case with respect to any application before a Tribunal].



1. **Inserted**      **vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19**
2. **Substituted**      **of 1986). Takes effect from the 22nd January, 1986.**

## **GOVERNMENT OF INDIA'S ORDERS**

**(1) Timely submission of the statements and appearance by Standing Counsel or authorized officer before the Benches on the due dates to be ensured.** -The Central Government Counsels to present the cases of Central Government Departments before the Benches of the Central Administrative Tribunal wherever such Departments, are respondents have been appointed and their names communicated to the Ministries/Departments, etc.

As per Section 23 (2) of the Administrative Tribunals Act, 1985, as amended by the Administrative Tribunals (Amendment) Act, 1986, "the Central Government may authorize one or more legal practitioners or any of its officers to act as presenting officers and every person so authorized by it may present its case with respect to any application before a Tribunal". In view of this, it has been decided that whenever an application is filed before a Bench of the Tribunal and a Central Government Department/Ministry or one of the officers under its control is made a respondent, having regard to the importance of the case concerned, the concerned Department/Ministry can also decide to present the case before the Bench of the Tribunal directly through one of its officers who should be at least a Group 'A' officer of the Central Government. If such a decision is taken, the concerned Ministry/Department may write to the Registrar of the Bench of the Tribunal authorizing a particular officer to present the case on behalf of the Government. Wherever the concerned Ministry/Department feels having regard to the number of cases which are pending before the Bench of the Tribunal, that it will be advantageous to authorize one of its officers to present the cases before the Tribunal, a letter authorizing a particular officer in a general way may be issued to the Registrar of the concerned Bench of the Tribunal. Since the power to authorize an officer to present the case before the Tribunal vests only with the Central Government, it is necessary to obtain the approval of the Minister concerned for such authorization unless this power is delegated to the Secretary of the Ministry/Department.

It has also been brought to the notice of this Ministry that in certain cases where notices were issued by the Central Administrative Tribunal the concerned Government Departments, failed to appear before the Bench on the date fixed or deputed a very junior official with records. It is enjoined that whenever notice

is received from the Tribunal (unless it is decided to present the case through an officer) the Department concerned should immediately get in touch with the Senior Standing Counsel/ Standing Counsel attached to the particular Bench for handling the case himself or allotting the case to one of the Additional Standing Counsels attached to the Bench. The concerned Government Counsel should be fully briefed. It should be ensured that the Government Counsel or the authorized officer appears before the Bench of the Tribunal on the fixed date.

All the Ministries/Departments and the subordinate offices should ensure timely submission of the statements before the Benches of the Tribunal and appearance of the Central Government Counsels or authorized departmental representative on the date fixed for hearing of cases.

[G.I., Dept. of Per. & Trg., O.M. No. 11019/58/85-AT, dated the 26th May, 1986.]

**(2) Letter of authority authorizing a departmental officer to present the case to be sent to the Registrar.** -With reference to Order (1) above, it has been brought to the notice of the Department of Personnel and Training that instructions contained therein are not complied with strictly by various Ministries/Departments. It is once again reiterated that in cases where the Ministries/Departments decide to present the case before the Bench of the Tribunal directly through one of its officers, they may write to the Registrar of the Bench of the Tribunal authorizing a particular officer to present the case on behalf of the Government. Officers, who are not so authorized are not entitled to appear and represent the Government before the Tribunal. It is, therefore, requested that letters of authority, in such cases may be sent to the Registrars concerned without fail so that the Government cases are defended properly.

[G.I., Dept. of Per. & Trg., O.M. No. 11019/58/85-AT, dated the 25th May, 1988.]

**(3) Appointment of counsel outside Central Government Counsel/ Panel Counsel to be only with the approval of the Minister of the Administrative Ministry.** -The names of the Central Government Counsel appointed to different Benches of the Central Administrative Tribunal is enclosed (not printed). In respect of Benches for whom no specific names have been mentioned, the Standing Counsels for the Central Government attached to the High Court are authorized to present cases of the Central Administrative Tribunal. More Counsels are being appointed to all Benches which will be intimated separately.

The Central Government Departments are free to choose any Counsel included in the panel to present their cases or request the Standing Counsel to allot a Counsel to deal with their cases. If the number of cases filed before any Bench of the Tribunal in respect of a Ministry/Department is considerable and it is felt that it would be better to engage a Counsel exclusively to represent the Department, there is no objection for the Ministry/Department to appoint a Counsel who is not included in the panel. The

selection of Counsel in such cases should be with the approval of the Minister of the Administrative Ministry. Such Counsel may be appointed without mentioning any period of tenure and they may be informed that their engagement can be cancelled at any time. The terms and conditions for payment of fees to such Counsel will be the same as are applicable to the Counsel appointed by the Government for the Central Administrative Tribunal. It may be mentioned that at present the rates of fees for them are the same as now prescribed and applicable to the Central Government Counsel/Panel Counsel in respect of cases coming before the High Courts.

[G.I., Dept. of Per. & Trg., Lt. No. A-] 1019/38/85-AT, dated the 25th February, 1987. ]

**(4) Correspondence can be had only with the Counsel for defence and not directly with the Chairman or Registry.** -It has come to the notice of the Government that Officers of the Central Government are writing letters to the Chairman and the Registry of the Central Administrative Tribunal in connection with the cases pending in the Tribunal. It is hereby clarified that such direct correspondence with the Chairman or the Registry of the Tribunal by the Departments concerned is not correct. It is, therefore, brought to the notice of all concerned that the Ministries/Departments concerned may contact the Counsel appointed for defending the case for all information relating to the pending cases.

[G.I., Dept. of Per. & Trg., O.M. No. A-1 1019/36/87-AT, dated the 24th March, 1987.]

**(5) Standing Counsels responsible for equal distribution of cases among various Counsels and for proper defence of cases on the due dates. -**

1. Of late some references relating to complaints against the Central Government Standing/Additional Standing Counsels in the Central, Administrative Tribunal regarding mishandling/lapse in defending the cases or failure in appearance on the due dates are being received from various Ministries/Departments, etc. The matter has been considered in this Department and it has been decided that henceforth the Senior Central Government Standing Counsel/Central Government Standing Counsel in a Bench of the Tribunal shall be accountable and responsible for distribution of cases equitably amongst the various Counsels as also for ensuring that Government cases are properly defended on the due dates. All cases con-ling before a Bench of the Central Administrative Tribunal are required to be entrusted to the Government Counsels only through the Senior Central Government Standing Counsel/Central Government Standing Counsel.

2. All the Ministries/Departments are advised that it would be prudent for them to appoint/engage advocates, outside the panel of counsels, if considered necessary, only at the rates approved for the Central Government Standing/Additional Standing Counsels for presenting applications in a High Court. In exceptional cases where it is considered necessary to appoint an advocate at rates higher than that of the

Standing Counsels/Additional Standing Counsels, the advice of the Ministry of Law and Justice (Department of Legal Affairs) should be obtained by them.

[G.I., Dept. of Per. & Trg., O.M. No. A-] 1019/38/85-AT, dated the 12th August, 1988.]

**(6) Senior Standing Counsel alone to be approached by the Department/Office in the first instance.** -All the Ministries/Departments of the Government of India, etc., are requested to kindly note the appointment of Shri B.N. Singh as Senior Standing Counsel for processing the cases before the Allahabad Bench of the Tribunal. It is also enjoined upon them that whenever notice is received from the Tribunal (unless it is decided to present and process the case through an officer of the Department), the Department/Office concerned should immediately get in touch with Shri Singh, the Senior Standing Counsel, who will decide whether to handle the case himself or to allot it to the Additional Standing Counsels. But in no case the Additional Standing Counsels should be approached directly.

[G.I., Dept. of Per. & Trg., O.M. No. A-1 1019/38/85-AT, dated the 30th October, 1986.]

**(7) Engagement of Advocates to act as Presenting Officers (Counsels) and fees payable to them.**  
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1. The Central Administrative Tribunal set up under the Administrative Tribunals Act, 1985, with its Principal and Additional Benches has started functioning.

2. Under the Act, the Central Government is, inter alia, empowered to appoint one or more persons to act as Presenting Officer(s) and the Advocates so appointed and duly authorized in this behalf may present its case with respect to any application before a Bench of the Tribunal.

In this context, the Advocates mentioned in the list enclosed (not printed) have been selected to act as Presenting Officers on behalf of the Central Government before the relative Bench of the Tribunal as specified.

3. The Advocates will be engaged on a case-to-case basis, as necessary, and their fees for drafting pleadings and for appearances will be paid by the Departments concerned directly. To enable them to act as a Presenting Officer, the Departments will have to execute in their favour Vakalatnama according to the rules of procedure of the Tribunal.

4. The rate of fees for the Advocates will be the same as now prescribed and applicable to Central Government Counsels/Panel Counsels in respect of an application before the High Court. None of the Advocates who may be engaged to act as Presenting Officer before any Bench (whether a Central Government Standing Counsel or a Panel Counsel) will be entitled to any monthly retainer for acting as such (except in a case of an Advocate specifically notified otherwise). However, a Senior Central Government Standing Counsel/Central Government Standing Counsel, who is now in the receipt of a monthly retainer, by virtue of his existing appointment as such by the Department of Legal Affairs, Ministry of Law and Justice, will continue to draw the same at the prevalent rate from that Department. In other words, no additional retainer will be payable to such Counsel by the Department of Personnel and Training on account of their appointment as such Counsel for the Central Administrative Tribunal.

5. It is clarified that in so far as the Bombay and Calcutta Benches are concerned, the Advocates concerned will continue to be Panel Counsel in the appropriate Groups and their status, terms and conditions (including rates of fees) as are applicable to them by virtue of their appointments by the Department of Legal Affairs, Ministry of Law and Justice, will remain unaltered.

[G.I., Dept. of Per. & Trg., O.M. No. A. 11019/38/85-AT, dated the 28th November, 1985. ]

**(8) No monthly retainer except for Senior Standing Counsel at Delhi.** -None of the Advocates (except Shri N.S. Mehta) appointed to act as Presenting Officers on behalf of the Central Government before the Principal Bench of the Central Administrative Tribunal, at Delhi, will be entitled to any monthly retainer for acting as such, Shri N.S. Mehta, Senior Standing Counsel, will be entitled to a monthly retainer of Rs. 500 (Rupees Five hundred only).

[G.I., Dept. of Per. & Trg., O.M. No. A-1 1019/38/85-AT, dated the 18th December, 1985.1

**(9) Rates of fees for Counsels in various High Courts as revised with effect from 1-4-1987, applicable to Counsels presenting cases before CAT.** -This Department is receiving references seeking clarification regarding the rates of fee payable to the Central Government Counsels/ Advocates appointed as Presenting Officers in various Benches of the Central Administrative Tribunal. It may be reiterated that the rates of fees for the Counsels appointed for presenting the cases before Central Administrative Tribunal will be the same as prescribed and applicable to Central Government Counsels/Panel Counsels in High Court. The Ministry of Law and Justice, the appointing authority of Counsels in various High Courts, have since revised the rates of fees for Counsels in various High Courts with effect from 1-4-1987. The revised rates of fees for Counsels in High Courts will henceforth, be applicable to Counsels appointed for presenting the cases before the Central Administrative Tribunal.



[G.I., Dept. of Per. & Trg., O.M. No. A-1 1019/38/85-AT, dated the 13th June, 1988.]

**(10) Conveyance Charges to Central Government Counsels in New Bombay Bench.** -The question of sanctioning conveyance charges to the Central Government Standing Counsel/Additional Central Government Standing Counsels in New Bombay Bench of the Central Administrative Tribunal was under consideration of this Department in view of the genuine difficulties faced by them in commuting from the Bombay High Court (where these Counsels have set up chambers). It has now been decided that all the Central Government Counsels in New Bombay Bench of the Tribunal may be paid actual hire charges subject to maximum of Rs. 50 (fifty only) per day whenever they are required to attend the Tribunal's office in connection with court cases. The payment of conveyance charges to the Counsels is to be made only on the days the Counsels attend official work in New Bombay. It may be mentioned in this connection that any expenditure incurred towards payment of conveyance charges to the Counsels at New Bombay Bench of the Tribunal shall be the liability of the Ministry/Department on whose behalf the Counsel is engaged in the Tribunal. The Ministries/Departments concerned may therefore ensure that actual journeys have been performed by the Counsels and the maximum amount admissible per day is Rs. 50 only, before making payment.

[G.I., Dept. of Per. & Trg., O.M. No. A-27017/2/86-AT, dated the 22nd September, 1988. ]

**(11) Grading/Categorization of Counsels in New Bombay Bench of the CAT for payment of fees.**  
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1. The question of determining grading/ categorization of Central Government Counsels in New Bombay Bench of the Central Administrative Tribunal, to- the purpose of payment of fees, etc., was under consideration in this Department. It has now been decided in consultation with Department of Legal Affairs (Branch Secretariat, Bombay) that grading/categorization of Government Counsels in the Central Administrative Tribunal, Bombay Bench, for the purpose of payment of fees, etc., will be as follows: -

S1. No.	Name of the Counsel	Grading
1.	Shri M.I. Sethna, Central Government Standing Counsel	Senior Counsel (Group I)
2.	Shri P.M. Pradhan, Additional Standing Counsel	Senior Counsel

- |    |   |                |
|----|---|----------------|
| 3. | Shri R.K. Shetty, Additional Standing Counsel   | -do-           |
| 4. | Shri B.M. Masurkar, Additional Standing Counsel | Junior Counsel |
| 5. | Shri J.P. Deodhar                               | -do-           |

2. In view of the position stated above, all Ministries/Departments are advised to settle legal fee claims of the Government Counsels in New Bombay Bench of the Central Administrative Tribunal as per rates circulated by the Ministry of Law and Justice for Central Government Counsels/Panel Counsels in the Bombay High Court.

[G.J., Dept. of Per. & Trg., O.M. No. A-1 1019/18/88-AT, dated the- November, 1988.]

**(12) Need for proper utilization of services of Panel Counsels/Central Government Counsels for conduct of cases on behalf of the Union of India. –**

1. It has been brought to the notice of this Department that the services of Central Government Counsels appointed by this Department for conducting cases on behalf of the Union of India before various Benches of the Central Administrative Tribunal are not being utilized by some Ministries/Departments with the result that the Government Counsels are sometimes not aware of the cases listed before any Bench of the Tribunal on a particular day. In such cases briefs are given by certain Ministries/Departments to the Central Government Counsels appointed by the Ministry of Law and Justice for the concerned High Court.

2. The matter has been considered in this Department and it has been decided that the instructions issued by us vide our OM of even number, dated 25-2-1987 and 12-8-1988 are to be adhered to strictly. In other words, all cases coming before a Bench of the Tribunal are required to be entrusted to the Central Government Counsels appointed by this Department except at places such as Ahmedabad, Jodhpur, Jabalpur and Ernakulam where no Government Counsels have been appointed or adequate number of Government Counsels are yet to be appointed. In respect of the places mentioned above and at such places where circuit sittings of the Tribunal are being held, services of Central Government Counsels appointed by the Ministry of Law and Justice for presenting cases before the High Court may be utilized to handle the cases on behalf of the Central Government in the Tribunal.

3. If, however, it is considered necessary, to appoint/engage advocates, other than the empanelled Counsels circulated by this Department, approval of the Minister-in-charge of the Administrative Ministry may be obtained before such appointment. It may be mentioned in this connection that rates of fee for engagement/appointment of Counsels in such cases will be the same as are prescribed and applicable to Central Government Standing/Additional Central Government Standing Counsels for presenting applications in a High Court.

[G.I., Dept. of Per. & Trg., O.M. No. A-1 1019/38/85-AT, dated the 10th April, 1989.]

As the various Ministries/Departments are aware, Central Government Standing Counsels have been appointed by the Department of Personnel and Training at various places for defending cases before the Central Administrative Tribunal. A list of such Counsels appointed have been circulated to all Ministries/Departments with a view to ensure that their services are made use of for defending cases in the Central Administrative Tribunal on behalf of the Government of India. It is only in exceptional cases where it is felt necessary to appoint counsels outside the panel, private counsels be engaged to take care of cases, that too with the approval of the Minister concerned. Instances have, however, come to the notice of this Department that private counsels are appointed by various Ministries/Departments in a routine way. It is once again reiterated that as far as possible services of counsels whose lists have been circulated by this Department may be utilized and wherever it is found unavoidable, private counsels be appointed after following the procedure prescribed in this Department's O.M. of even number, dated 13-7-1988 and 10 4-1989.

[G.I., Dept. of Per. & Trg., O.M. No. A-1 1019/38/89-AT, dated the 29th August, 1989.]

### **(13) Private practice by Central Government Counsels in cases before CAT against Government.**

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1. The matter regarding defending of private cases by Central Government Counsels in the Central Administrative Tribunal was under consideration in this Department. It has been decided in consultation with the Department of Legal Affairs that every Counsel in the Tribunal will have the right to private practice which should not, however, interfere with the efficient discharge of his duties as a Counsel for the Government of India. This will, however, be subject to the condition that a Counsel shall not advise any party in or accept any case against the Government of India in which he has appeared or is likely to be called upon to appear for or advise or lead to litigation against the Government of India.

2. If the Counsel happens to be a partner of a firm of lawyers or solicitors it will be incumbent on the firm not to take up any case against the Government of India in the concerned Bench of the Tribunal or

any case arising in other courts out of those cases, e.g., appeals and revisions in the Supreme Court.

3. In view of the position explained above, a Counsel is not supposed to advise any party which may prejudice the interest of the Government of India.

[G. I., Dept. of Per. & Trg., Circular Letter No. A-11019/86-97-AT, dated the 15<sup>th</sup> November, 1988. ]

**(14) Primary responsibility for contesting cases will be with the Administrative Ministry/Department concerned on the basis of specific facts and circumstances relevant to them.-**

1. While the Ministry of Personnel, Public Grievances and Pensions is the nodal Ministry responsible for formulating policies and framing rules relating to pension and other retirement benefits, seniority, promotion, fixation of pay, disciplinary proceedings, reservation for scheduled castes, scheduled tribes, ex-servicemen, etc., and other aspects of personnel administration, the Administrative Ministries/Departments are responsible for considering individual cases of Government servants and issuing appropriate orders thereon in accordance with the rules and instructions on the subject and in consultation with the Ministry of Personnel, Public Grievances and Pensions, if considered necessary.

2. A number of petitions are filed by Government servants in various Courts and the Central Administrative Tribunals challenging the orders issued by the Administrative Ministries/Departments in individual cases in which the relevant rules and instructions on the basis of which the impugned orders have been issued are also challenged. In most of these cases, the Ministry of Personnel, Public Grievances and Pensions is also impleaded as one of the respondents for the reason that the relevant rules and instructions were issued by that Ministry or that the impugned orders were issued in consultation with that Ministry.

3. The existing practice is that in all such cases the petitions are contested by the Administrative Ministry/Department concerned both on its behalf and on behalf of the Ministry of Personnel, Public Grievances and Pensions, if necessary, in consultation with the latter. However, recently in some cases, the Administrative Ministries/Departments insisted on the Ministry of Personnel, Public Grievances and Pensions defending the Government action on the ground that the rules/instructions challenged in the petitions were issued by that Ministry. This is not the correct procedure to follow. Since each case is to be contested on the basis of the specific facts and circumstances relevant to it, the Administrative Ministry/ Department will be in a better position to defend the case. If, however, any clarification is required on the interpretation or application of the rules or instructions relevant to the case, the concerned Department in the Ministry of Personnel, Public Grievances and Pensions may be approached for that purpose. References relating to pension and other retirement benefits may be made to the Department of Pensions and Pensioners' Welfare and in respect of other matters relating to seniority, promotion, etc., the

Department of Personnel and Training may be consulted. This Ministry will continue to handle such references with utmost priority. However, the primary responsibility for contesting such cases on behalf of the Government will be that of the Administrative Ministry/Department concerned.

4. The Ministry of Agriculture, etc., are requested to bring these instructions to the notice of their attached and subordinate offices.

[G.I., Dept. of Per. & Trg., O.M. No. 20036/23/88-Estt. (D), dated the 6th January, 1989.

**(15) Obtaining opinion of Legal Remembrancer/Law Officer no more necessary.-**

1. Ministry of Law, Department of Legal Affairs, is concerned with rendering legal advice to all the Ministries, Departments and attached/subordinate offices of the Central Government. When litigation is initiated in a District Court where it is not possible for the concerned department to obtain urgent advice from the Law Ministry, the department used to seek the opinion of the District Government Counsel of the State Government attached with that Court in urgent matter. Even, in such cases the Department of Legal Affairs has to be consulted later on as to the defence of the case.

2. With the establishment of Central Administrative Tribunals these courts and High Courts have no jurisdiction in service matters. The question of obtaining opinion from DGC of the State Government does not arise and, therefore, a legal remembrancer has properly declined to give any opinion for defence of the cases before CAT.

3. In most of the service matters the concerned department would have already obtained the opinion of the Legal Affairs Department in the matter at the stage of consideration of the case within the Department. Even if a person goes to CAT, the concerned department would have to consult the Department of Legal Affairs for seeking opinion as to the defence of the case. A decision on defending a case should be taken by the concerned department only after obtaining such opinion. If the case is required to be defended the matter would be entrusted to the Standing Counsel attached to the concerned Tribunal unless the department engages another counsel. When a reply in defence is prepared by the Counsel entrusted with the case the same should be shown to Department of Legal Affairs for vetting. If the judgment of CAT goes against the department they should immediately obtain a copy of the judgment and opinion of the Counsel who has handled the case as to whether he would recommend filing a Review Petition or a Special Leave Petition indicating the grounds and reasons therefore. A reference should again be made to the Department of Legal Affairs along with a copy of the judgment and the opinion of the concerned counsel for advice, on the further course of action. While pursuing this course of action the limitation for filing Review Application and SLP should invariably be kept in mind and action taken by the concerned officer if necessary by personal contacts at all levels because if limitation expires for

seeking remedies available in law, it may cause irreparable damage to Government's interests.

4. Judicial Section/O.&.M. Section may also see before this is sent back to the Administrative Ministry.

[G.I., Min. of Law (Dept. of Legal Affairs), I.D. No. 11526/89-Adv. (A), dated the 24th July, 1989.]

**(16) Instructions regarding handling of CAT cases.** -In the recent past, a number of proposals have been received from Circles for filing SLPs in the Supreme Court, while in other cases notices on Contempt Petitions have been received against the officers of the Department for non-implementation of the orders of the various Benches of the Central Administrative Tribunals. In view of the increasing number of cases being received in this regard of late, the position regarding handling of CAT cases has been reviewed.

2. It is noted with regret that Circles are not giving due importance to CAT cases and that senior officers like PMSG and Directors seldom go to the Government Counsels to discuss CAT cases with them and matters are generally left to be handled by ASPOs and Assistant Directors. This has at times resulted in gaps in the information furnished to the Government Counsels, which, in turn, has had an adverse impact on the outcome of cases. You will agree that this is not a happy state of affairs. In view of the foregoing, the following measures are now prescribed for streamlining the process of handling CAT cases and to ensure their proper monitoring: -

(a) In all the cases where DG is respondent, a copy of the original application should invariably be sent to the concerned Deputy Director-General in the Directorate, by name.

(b) Copy of the judgment should be obtained as soon as the orders are pronounced. This should be forwarded to the Directorate demi-officially, along with the relevant documents, in cases where the DG is the respondent.

(c) In the Circles, each Division and Regional Office should maintain a register to monitor the CAT cases. In this register, Court cases, including all the CAs which are received by the Divisional Office, Regional Office and Circle Office, should be properly entered and maintained with the following information: -

(i) Date of receipt of the OA.

- (ii) Division Office case mark.
- (iii) Regional Office case mark.
- (iv) Circle Office case mark.
- (v) OA No.
- (vi) Names of applicants.
- (vii) Names of Counsels.
- (viii) Particulars of the respondents.
- (ix) Particulars of relief sought.
- (x) Date of CAT order.
- (xi) Summary of the order.
- (xii) Action taken/to be taken at various levels on the CAT order.

3. The above register should be maintained at all levels and should be reviewed personally from time to time by the Divisional Head, Regional Head and the Chief PMG, as the case may be.

4. Inspection of the aforesaid register should be included as an item in the questionnaire of the unit/office concerned.

5. The Divisional Head should intimate the position of the CAT cases to the DPS/Regional PMG concerned as one of the items in the monthly report and the Regional Offices, in their turn, should mention the same in their monthly report to the Chief PMG.
6. Effective liaison should be maintained with the Senior Central Government Standing Counsel so as to ensure that in important cases he himself appears on behalf of the Department.
7. In cases where the CAT orders cannot be implemented within the stipulated time for any reason, application for extension of time should be moved well in times, before the expiry of the stipulated date.
8. In many cases, it has been noted that the Hon'ble CAT desires that the applicant may make a representation to the DG and that the latter should dispose of the same within a stipulated period. It is well known that as per departmental procedures, all representations should be submitted to the DG through proper channel. However, since these provisions are not pointed out to the Hon'ble CAT at the time the directions are being given by them, it is invariably presumed by the Tribunal that applicants can send their representations directly and at times even jointly to the DG. Instances have come to notice where representations of officials of this Department are seen to have been made to the Heads of other Departments like the Department of Telecommunications for want of proper clarification at the time of passing orders, thereby delaying the process of disposing them. Under the circumstances, it is requested that relevant provisions of the departmental rules may be brought to the notice of the Hon'ble CATS, at the first available opportunity so that appropriate orders in consonance with the departmental rules are passed by them.
9. In view of the foregoing, it is impressed upon all concerned that all pending CAT cases should be monitored vigorously with a view to having them settled as quickly as possible.

[G.I., Dept. of Posts, No. 66-52/96-SPB. I, dated the 12th August, 1996.]

**24. Conditions as to making of interim orders.** -Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to, an application unless-

- (a) Copies of such application and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or proposed to be made; and



(b) Opportunity is given to such party to be heard in the matter:

Provided that a Tribunal may dispense with the requirements of Clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant which cannot be adequately compensated in money but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the Tribunal has continued the operation of the interim order.

**<sup>1</sup>[25. Power of Chairman to transfer cases from one Bench to another. -On the application of any of the parties and after notice to the parties and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench.]**

**1. Substituted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.**

**<sup>1</sup>[26. Decision to be by majority. -If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard the case, including those, who first heard it. ]**

**1. Substituted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986) and takes effect from the 22nd January, 1986.**

**27. Execution of orders of a Tribunal. -Subject to the other provisions of this Act and the rules, <sup>1</sup>[the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including a High Court) and such order ] shall be executed in the same manner in which any final order of the nature referred to in Clause (a) of sub-section (2) of Section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed.**

**1. Substituted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986) and**

**takes effect from the 22nd January, 1986.**

## **GOVERNMENT OF INDIA'S ORDER**

**Judgments of the CAT be final and to be complied within the stipulated time-limit. –**

1. This Department is getting a number of references regarding implementation of the judgments pronounced by the various Benches of the Central Administrative Tribunal. It may be mentioned that the Central Administrative Tribunal was established with effect from 1-11-1985, with a view to provide speedy and inexpensive relief to the Government servants in the matter of deciding their complaints and grievances on recruitment and conditions of service. With this end in view, it was, inter alia, mentioned in this Department's O.M. No. A-11019/ 37/85-AT, dated the 13th August, 1985 (Section 1) vide paragraph (13) which is reproduced below-

“The orders of the Tribunal shall be final and binding on both the parties. The order of the Tribunal should be complied with within the time-limit prescribed in the order or within six months of the receipt of the order where no such time-limit is indicated in the order.”

2. It is once again brought to the notice of Ministries/Departments of the Government of India that the judgments of the Central Administrative Tribunal should be complied with as promptly as possible within a minimum period of time. The orders of the Tribunal should be implemented within the time-limit prescribed by the Tribunal itself or within six months of the receipt of the order where no such time-limit is indicated by the Tribunal.

3. It is requested that the contents of this OM may kindly be brought to the notice of all concerned and compliance ensured.

[G.I., Dept. of Per. & Trg., O.M. No. A-11019/69/87-AT, dated the 14th August, 1987.]

## **DIRECTOR-GENERAL, POSTS ORDERS**

**Follow-up action on Judgment delivered by CAT.** -The Director General has noticed with concern and dismay that the judgments pronounced by the various benches of CAT are not being correctly and properly processed by the Heads of Circles. It may be appreciated that the CAT judgments have far-reaching implications, as these interpret and decide substantial points of law. It is, therefore,

inescapable that these are examined threadbare in this Directorate, in consultation with the Ministry of Law and if need be, with advice of the nodal Ministry concerned, like Finance and Personnel, with a view to exploring the feasibility of filing SLP in the Apex Court. Extreme circumspection is called for in the matter because the CAT judgments are quoted as precedents to be used in other similar situations.

2. It is, however, observed, that the Heads of Circles have been implementing the judgments as a matter of routine and are generally not consulting this office. Even when a reference is finally made, it is either done after the limitation period for filing SLP is long over or at the very last moment when the time margin left does not permit of any meaningful examination of the case.

3. The Director-General has, therefore, ordered that henceforth, all such cases should invariably be referred to this office immediately after the judgment has been pronounced, along with the following documents: -

- (i) Brief history of the case.
- (ii) Copy of the OA filed by the official and the counter-affidavit filed by the department.
- (iii) A copy of the judgment clearly indicating the date of its receipt.
- (iv) Opinion of the Standing Counsel regarding filing of SLP.
- (v) Opinion of IFA.
- (vi) Specific recommendations of PMG/Chief PMG.

4. It is also seen that at times a plea is advanced that the Circle Office was not aware of the fact of the delivery of judgment or the opinion of the Standing Counsel could not be obtained on time. Preemptive measures are required to be taken by ensuring proper coordination with the Standing Counsel and the Secretariat of the CAT. It is hereby ordered that in future all CAT cases should be monitored at the level of the DPS who would be held responsible for any lapse in this regard.

5. Contents of this letter should be brought to the notice of all the subordinate units for scrupulous

compliance.

[G.I., Dept. of Posts, Lr. No. 2-75/90-PAP, dated the 19th April, 1994.]

## **DIRECTOR-GENERAL, TELECOM ORDERS**

**(1) Judgment bearing on pay and allowances to be implemented only in consultation with Nodal Ministry.** -It has been pointed out by Ministry of Finance that Court judgments which have a bearing on pay and allowances should be implemented only in consultation with Department of Personnel and Training. It is learnt that certain Circles (on their own) are implementing the CAT judgments having a bearing on pay and allowances without referring to Telecom Headquarters who in turn will have to consult Department of Personnel and Training before clearance for implementation.

Ministry of Finance has expressed displeasure at our deciding issues of pay and allowances which will have a wider impact without consulting them. Time and again instructions have been issued by this Department, that issues with a bearing on pay and allowances are to be decided in consultation with nodal Ministry, but these instructions are not being adhered to properly in some cases.

It is, therefore, requested that every such case is invariably referred to Directorate for consulting it with the nodal Ministry. Circles are not to implement such CAT/Court decisions on their own.

[G.I., Dept. of Telecom, Letter No. 50-60/94-PAT, dated the 13th December, 1994.]

**(2) Procedure to be followed by Heads of Circles for handling cases decided by CATs.** -Attention is invited to the cases of following types which are decided by the CAT from time to time: -

- (a) Stepping up of pay of Senior Officers/Officials with reference to their juniors.
- (b) Counting of pre-appointment training period towards duty for the purpose of increment.
- (c) Fixation of pay of Ex-servicemen at the time of their re-employment in Department of Telecom.

- (d) Remote Locality Allowance (RLA), anomaly in covering different cities at different altitudes and availability of general public amenities like hospitals, education and road/rail transport, etc.
- (e) Miscellaneous sporadic cases like HBA, special pay, LTC, etc.

Lately, there has been phenomenal increase in CAT cases of types mentioned above, particularly of category (a) above. It becomes difficult to explain the delay of more than 90 days wherever it is decided to file an SLP in the Supreme Court against the judgment of CAT. Such delays are common because of co-ordination at various levels and procedural constraints.

**CAT** is granting 90 days (maximum) time for implementing its judgment, and it is difficult to honour the CAT orders within stipulated period because of the reasons already explained. After elapsing of granted period, applicants file Contempt Petitions in the Tribunals. Under such pressures/circumstances, the Department is left with no alternative except to implement the judgment to the applicants subject to outcome of the SLP being filed in the Supreme Court.

It has, therefore, been decided in these cases to authorize the Heads of Circles to follow the procedure as under-

- (i) File miscellaneous petition in OA where judgment has been delivered recently and time for implementation of the judgment has not expired. This miscellaneous application may state the difficulties likely to be faced while making recovery of the amount paid in compliance of the judgment if such contingency arises in future. It may also be stated that the anxiety of Department of Telecom is to safeguard the money emanating from public exchequer. The prayer can be made for allowing Department of Telecom to deposit the amount in an account opened for the purpose in any Scheduled Bank or Post Office and money may not be allowed to be withdrawn by the applicants immediately, till future contingency of the recovery becomes non-existent.
- (ii) In the cases where judgments are to be delivered in future, a miscellaneous petition as mentioned in para. (i) above may be filed within a period of 15 days of judgment and further action taken accordingly.
- (iii) In case request in miscellaneous petitions is accepted by the CAT, action for depositing the amount may be taken and all relevant papers forwarded to this office for examining the possibility of filing SLP in the Supreme Court.

(iv) In case request in the miscellaneous petition is rejected by CAT, judgment will not be implemented and all the relevant papers with brief history of the case may be sent to this office immediately for examining the possibility of SLP, etc.

(v) If decision of SLP goes in favour of the applicant, the said amount will be paid to him along with the interest accrued. If otherwise, the same will be deposited in the Government account.

[G.I., Dept. of Telecom, No. 50-169/95-PAT, dated the 12th July, 1995.]

## **CHAPTER V**

### **Miscellaneous**

**28. Exclusion of jurisdiction of courts except Supreme Court.** -On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any service or post or service matters concerning members of any service or persons appointed to any service, or post, <sup>1</sup>[no court except-

(a) The Supreme Court; or

(b) Any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 (14 of 1947), or any other corresponding law for the time being in force,

Shall have] or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters.

**1. Substituted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986) and takes effect from the 1st November, 1985.**

## **AUTHORS NOTE**

**(1-4-1997)**

**A special seven-Judge Bench of the Supreme Court has ruled that Section 28 relating to “exclusion**

**of writ jurisdiction of the High Court” is unconstitutional. The press report in this regard is reproduced below. Consequential amendments to Section 28 are awaited.**

**(1) Tribunals subject to judicial scrutiny.** -A special seven-Judge Bench of the Supreme Court today, in a significant judgment, unanimously ruled that the decisions of tax and administrative tribunals would be subject to judicial scrutiny of the High Courts. It said that Clause 2 (d) of Article 323-A and Clause 3 (d) of Article 323-B of the Constitution - to the extent of empowering the appropriate legislature to exclude the (writ) jurisdiction of the High Courts and Apex Court under Articles 226, 227 and 32 of the Constitution, in making laws for the Constitution of administrative tribunals (in ‘service matters’) and tax tribunals, respectively-”are unconstitutional”.

The Chief Justice, Mr. A.M. Ahmadi, who delivered the judgment, said that Section 28 of the Administrative Tribunals Act, 1985 - excluding the writ jurisdiction of the High Court and “exclusion of jurisdiction clauses” in all other legislations enacted under the aegis of Articles 323-A and 323-B of the Constitution - would, to the same extent, be unconstitutional.

“The jurisdiction conferred upon the High Courts under Articles 226 and 227, and upon the Supreme Court under Article 32 of the Constitution, is part of the inviolable basic structure of the Constitution”, the Bench said.

“While this jurisdiction (of the Superior Courts) cannot be ousted”, the Bench pointed out that “other Courts and Tribunals (constituted under appropriate laws) may perform a supplemental role in discharging the powers conferred by Articles 226, 227 and 32 of the Constitution.” The tribunals created under Article 323-A and Article 323-B of the Constitution “are possessed of the competence to test the constitutional validity of statutory provisions and rules”, the Bench ruled.

All decisions of these tribunals would, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the tribunal concerned falls, the Apex Court held.

The tribunals “will, nevertheless, continue to act like Courts of first instance in respect of the areas of law for which they were constituted”.

It will not, therefore, be open for litigants “to approach directly the High Courts even in cases where they question the wires of statutory legislations - (except where the legislation which creates the particular tribunal is challenged) -by overlooking the jurisdiction of the tribunal concerned, the Bench noted.

Section 5 (6) of the 1985 Act (dealing with the power of the Chairman to constitute a single member/or two-member Benches, as the case might be, to decide given ‘service cases’) is valid and constitutional and is to be interpreted in the manner indicated in the judgment, the Bench said.

The Bench, besides the Chief Justice, comprised Mr. Justice M.M. Punchhi, Mr. Justice K. Ramaswamy, Mr. Justice S.P. Bharucha, Mr. Justice Saghir Ahmad, Mr. Justice K. Venkatswami and Mr. Justice K.T. Thomas.

The Bench directed that the cases concerned be listed before a Division Bench of the Court for disposal or individual facts in the light of the observations in this judgment.

The Bench further said that the power vested in the High Courts to exercise “judicial superintendence over the decisions of all Courts and Tribunals within their respective jurisdictions is also part of the basic structure of the Constitution”.

“This is because a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation, is equally to be avoided”.

However, “it is important to emphasize that though the subordinate judiciary or tribunals created under ordinary legislation cannot exercise the power of judicial review of legislative action to the exclusion of the High Courts and the Supreme Court, there is no constitutional prohibition against their performing a supplemental - as opposed to a substitutional role in this respect,” the Bench observed.

The Bench held that “that the power of judicial review over legislative action vested in the High Courts under Article 226 and in this (Apex Court) under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure”.

“Ordinarily, therefore, the power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded”, the Bench said.

The Bench made it clear “that where a question involving the interpretation of a statutory provision or rule in relation to the Constitution arises for the consideration of a single-member Bench of the Administrative Tribunal, the proviso to Section 5 (6) will automatically apply and the Chairman or the member concerned shall refer the matter to a Bench consisting of at least two members, one of whom must be a Judicial Member.



**(2) SC wants independent agency to oversee tribunals.** -A seven-Judge Bench of the Apex Court has held that the decisions of the Administrative Tribunals (to adjudicate special category of service matters) and tax tribunals - constituted under appropriate laws made under Articles 323-A and 323-B of the Constitution were amenable to scrutiny (under Articles 226 and 227 of the Constitution) before a Division Bench of the respective High Courts.

The Bench, however, said: “This direction will, however, come into effect prospectively, that is, will apply to decisions rendered hereafter”.

To maintain the sanctity of the judicial proceedings, the Bench added, it invoked “the doctrine of prospective overruling so as not to disturb the procedure in relation to decisions already rendered.”

The Bench recommended that the Union of India initiate action in regard to setting up of a wholly independent agency - under a single nodal Ministry, the Ministry of Law, to oversee the working of the tribunals, after consulting all concerned.

It would be open for the Ministry, in its turn, to appoint an independent supervisory body to oversee the working of the Tribunals, the Bench said.

This will ensure that if the President or Chairperson of the Tribunal is for some reason unable to take sufficient interest in the working of the Tribunal, the entire system will not languish and the ultimate consumer of justice will not suffer, the Bench pointed out.

“The creation of the single umbrella organization will, in our view, remove many of the ills of the present system”, the Bench said and added that “if the need arises, there can be separate umbrella organizations at the Central and State levels”.

Such a supervisory authority must try to ensure that the independence of the members of all such Tribunals is maintained. To that extent, the procedure for the selection of the members of the Tribunals, the manner in which funds are allocated for the functioning of the Tribunals and all other consequential details will have to be clearly spelt out, the Bench noted.

The Bench pointed out that the setting up of these Tribunals was founded on the premise that specialist

bodies comprising both trained administrators and those with judicial experience would, by virtue of their specialized knowledge, “be better equipped to dispense speedy and efficient justice”.

It was expected that a judicious mix of judicial members and. those with grass roots experience would best serve this purpose.

“To hold that the Tribunal should consist only of judicial members would attack the primary basis of the theory pursuant to which they have been constituted,” the Bench observed.

“Since the Selection Committee is now headed by a Judge of the Supreme Court, nominated by the Chief Justice of India, we have reason to believe that the Committee would take care to ensure that administrative members are chosen from amongst those who have some background to deal with such cases,” the Bench said.

**(The Hindu, dated 19-3-1997)**

## **29. Transfer of pending cases. -**

(1) Every suit or other proceeding pending before any court or other authority immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based is such that, it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before a High Court <sup>1</sup>[ ]

(2) Every suit or other proceeding pending before a court or other authority immediately before the date with effect from which jurisdiction is conferred on a Tribunal in relation to any local or other authority or corporation <sup>2</sup>[or society], being a suit or proceeding, the cause of action whereon it is based is such that it would have been, if it had arisen after the said date, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before a High Court <sup>1</sup>[ ].

**EXPLANATION.** -For the purposes of this sub-section “date with effect from which jurisdiction is conferred on a Tribunal”, in relation to any local or other authority or corporation <sup>2</sup>[or society], means the date with effect from which the provisions of sub-section (3) of Section 14 or, as the case may be, sub-section (3) of Section 15 are applied to such local or other authority or corporation <sup>2</sup>[or society].

(3) Where immediately before the date of establishment of a Joint Administrative Tribunal any one or more of the States for which it is established, has or have a State Tribunal or State Tribunals, all cases pending before such State Tribunal or State Tribunals immediately before the said date together with the records thereof shall stand transferred on that date to such Joint Administrative Tribunal.

**EXPLANATION.** -For the purposes of this sub-section, “State Tribunal” means a Tribunal established under sub-section (2) of Section 4.

(4) Where any suit, appeal or other proceeding stands transferred from any court or other authority to a Tribunal under sub-section (1) or sub-section (2), -

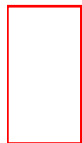
(a) The court or other authority shall, as soon as may be after such transfer, forward the records of such suit, appeal or other proceeding to the Tribunal; and

(b) The Tribunal may, on receipt of such records, proceed to deal with such suit, appeal or other proceeding, so far as may be, in the same manner as in the case of an application under Section 19 from the stage which was reached before such transfer or from any earlier stage or de novo as the Tribunal may deem fit.

(5) Where any case stands transferred to a Joint Administrative Tribunal under sub-section (3), the Joint Administrative Tribunal may proceed to deal with such case from the stage which was reached before it stood so transferred.

<sup>3</sup>[(6) Every case pending before a Tribunal immediately before the commencement of the Administrative Tribunals (Amendment) Act, 1987, being a case, the cause of action whereon it is based is such that it would have been, if it had arisen after such commencement, within the jurisdiction of any court, shall together with the records, thereof, stand transferred on such commencement to such court.

(7) Where any case stands transferred to a court under sub-section (6), that court may proceed to deal with such case from the stage which was reached before it stood so transferred. ]



**1. Deleted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986), came into force from the 22nd January, 1986.**

**2. Inserted**

**3. Inserted vide The Administrative Tribunals (Amendment) Act, 1987 (No. 51 of 1987). Takes effect from the 22nd December, 1987.**

**1[29-A.Provision for filing of certain appeals. -Where any decree or order has been made or passed by any court (other than a High Court) in any suit or proceeding before the establishment of a Tribunal, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, and no appeal has been preferred against such decree or order before such establishment and the time for preferring such appeal under any law for the time being in force had not expired before such establishment, such appeal shall lie-**

**(a) To the Central Administrative Tribunal, within ninety days from the date on which the Administrative Tribunals (Amendment) Bill, 1986, receives the assent of the President, or within ninety days from the date of receipt of the copy of such decree or order, whichever is later, or**

**(b) To any other Tribunal, within ninety days from its establishment or within ninety days from the date of receipt of the copy of such decree or order, whichever is later.]**

**1. Inserted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986) and takes effect from the 22nd January, 1986.**

**30. Proceedings before a Tribunal to be judicial proceedings. -All proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).**

**31. Members and staff of Tribunal to be public servants. -The Chairman, Vice-Chairman and other Members and the officers and other employees provided under Section 13 to a Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (45 of 1860).**

**32. Protection of action taken in good faith. -No suit, prosecution or other legal proceeding shall lie**

against the Central or State Government or against the Chairman, Vice-Chairman or other Member of any Central or Joint or State Administrative Tribunal, or any other person authorized by such Chairman, Vice-Chairman or other Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

**33. Act to have overriding effect.** -The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

**34. Power to remove difficulties. –**

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

**35. Power of the Central Government to make rules. -**

(1) The Central Government may, subject to the provisions of Section 36, by notification, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following, namely: -

(a) The case or cases which shall be decided by a Bench composed of more than <sup>1</sup>[two Members] under Clause (d) of subsection (4) of Section 5;

(b) The procedure under subsection (3) of Section 9 for the investigation of misbehaviour or incapacity of Chairman, Vice-Chairman or other Member;

(c) The salaries and allowances payable to, and the other terms and conditions of, the Chairman,

Vice-Chairman and other Members;

(d) The form in which an application may be made under Section 19, the documents and other evidence by which such application shall be accompanied <sup>1</sup>[and the fees payable in respect of the filing of such application or for the service or execution of processes];

(e) The rules subject to which a Tribunal shall have power to regulate its own procedure under sub-section (1) of Section 22 and the additional matters in respect of which a Tribunal may exercise the powers of a civil court under Clause (i) of sub-section (3) of that section; and

(f) Any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

**1. Substituted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.**

**36. Power of the appropriate Government to make rules.** -The appropriate Government may, by notification, make rules to provide for all or any of the following matters, namely: -

(a) The financial and administrative powers which the Chairman of a Tribunal may exercise over the <sup>1</sup>[ ] Benches of the Tribunal under Section 12;

(b) The salaries and allowances and conditions of service of the officers and other employees of a Tribunal under sub-section (2) of Section 13; and

(c) Any other matter not being a matter specified in Section 35 in respect of which rules are required to be made by the appropriate Government.

**1. Deleted vide The Administrative Tribunals (Amendment) Act, 1986 (No. 19 of 1986). Takes effect from the 22nd January, 1986.**

**<sup>1</sup>[36-A. Power to make rules retrospectively.** -The power to make rules under Clause (c) of sub-section (2) of Section 35 or Clause (b) of Section 36 shall include the power to make such rules or any of them

retrospectively from a date not earlier than the date on which this Act received the assent of the President, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable. ]

**1. Inserted vide The Administrative Tribunals (Amendment) Act, 1987 (No. 51 of 1987). Takes effect from the 22nd December, 1997.**

**37. Laying of rules. -**

(1) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.