



सत्यमेव जयते

**PARLIAMENT OF INDIA  
RAJYA SABHA**

**DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE  
ON PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE**

**SEVENTY-FOURTH REPORT**

**The Tribunals, Appellate Tribunals and Other Authorities  
(Conditions of Service) Bill, 2014**

*(Presented to the Rajya Sabha on 26th February, 2015)*  
*(Laid on the Table of Lok Sabha on 26th February, 2015)*



**Rajya Sabha Secretariat, New Delhi  
February, 2015/Phalguna, 1936 (Saka)**

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## COMPOSITION OF THE COMMITTEE

(As Constituted on 31<sup>st</sup> August, 2013)

1. Shri Shantaram Naik — *Chairman*

### **RAJYA SABHA**

2. Ms. Anu Aga
3. Shri Ram Jethmalani
4. Shri Sanjiv Kumar
5. Shri Parimal Nathwani
6. Shri Ram Vilas Paswan
7. Shri Sukhendu Sekhar Roy
8. Shri Ramchandra Prasad Singh
9. Dr. Abhishek Manu Singhvi
10. Shri Bhupender Yadav

### **LOK SABHA**

11. Maulana Badruddin Ajmal
12. Shri T. R. Baalu
13. Shri E. T. Mohammed Basheer
14. Shri N. S. V. Chitthan
15. Shri P. C. Gaddigoudar
16. Shri D.B. Chandre Gowda
17. Shri Shailendra Kumar
18. Shri Jitender Singh Malik
19. Shri Arjun Meghwal
20. Shri Pinaki Misra
21. Shri Abhijit Mukherjee
22. Shri S. S. Ramasubbu
23. Shri S. Semmalai
24. Shri S. D. “Shariq”
25. Shrimati Meena Singh
26. Shri Vijay Bahadur Singh
27. Dr. Prabha Kishore Taviad
28. Shri Suresh Kashinath Taware
29. Shri Madhusudan Yadav
30. Vacant
31. Vacant

## COMPOSITION OF THE COMMITTEE

(As Constituted on 1<sup>st</sup> September, 2014)

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

### **RAJYA SABHA**

2. Ms. Anu Aga
3. Shri Majeed Memon
4. Shri Parimal Nathwani
5. Shrimati Rajani Patil
6. Shri Sukhendu Sekhar Roy
7. Shri Ramchandra Prasad Singh
8. Dr. Abhishek Manu Singhvi
9. Shri K. T. S. Tulsi
- \*10. Shri Bhupender Yadav

### **LOK SABHA**

11. Shri Suvendu Adhikari
12. Shri Subrata Bakshi
13. Adv. Sharad Bansode
14. Shri P. P. Chaudhary
15. Shri Abu Hasem Khan Chowdhury
16. Choudhary Mehboob Ali Kaiser
17. Shri Shanta Kumar
18. Shri Santosh Kumar
19. Shri S. Bhagwant Mann
20. Shri Anoop Mishra
21. Shri B. V. Naik
22. Shri Vincent H. Palla
23. Shri V. Panneerselvam
24. Shri Vithalbhai Hansrajbhai Radadiya
25. Dr. A. Sampath
26. Shri Bharat Singh
27. Shri Udhayakumar M.
28. Shri Varaprasad Rao Velagapalli
29. Dr. Anshul Verma
- #30. Shri Tariq Anwar
- \$31. Adv. Joice George

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\* Change in the nomination of Shri Aayanur Manjunatha *w.e.f.* 30<sup>th</sup> September, 2014.

# Vacancy existing since the constitution of the Committee was filled-up on 11<sup>th</sup> September, 2014.

\$ Change in the nomination of Shri Innocent *w.e.f.* 22<sup>nd</sup> December, 2014.

**SECRETARIAT**

Dr. D.B. Singh, *Additional Secretary*

Shri K.P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

Shrimati Niangkhanem Guite, *Assistant Director*

## INTRODUCTION

I, Chairman of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, having been authorised by the Committee on its behalf, do hereby present the Seventy-fourth Report of the Committee on The Tribunals, Appellate Tribunals & Other Authorities (Conditions of Service) Bill, 2014 (**Annexure I**).

2. In pursuance of the Rules relating to the Department-related Parliamentary Standing Committees, the Hon'ble Chairman, Rajya Sabha referred the Bill, as introduced in the Rajya Sabha on the 19<sup>th</sup> February, 2014 to the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice on the 24<sup>th</sup> February, 2014, for examination and report to Parliament within two months *i.e.* by the 24<sup>th</sup> April, 2014. The Committee, however, in view of busy schedule of Members during the General Elections to the Sixteenth Lok Sabha, could not complete consideration of the Bill during its term. The Committee was reconstituted *w.e.f.* the 1<sup>st</sup> September, 2014. After its reconstitution, extension of time for presentation of its report was granted till the 27<sup>th</sup> February, 2015.

3. In order to solicit the views of stakeholders, the Committee issued a Press Communiqué on 8th March and 13th September, 2014. In response thereto the Committee received several memoranda containing suggestions from various organizations/individuals/experts. Comments of the Department of Justice on the views/suggestions so received, were obtained for consideration of the Committee. The Committee heard the views of Secretary, Department of Justice on 13th March, 2014 and Additional Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Additional Secretary, Ministry of Environment and Forests, representatives of the Department of Justice, Ministry of Law and Justice on 24th March 2014.

4. The Committee after its reconstitution again heard the views of Secretary, Department of Justice, Ministry of Law and Justice on the Bill in its sittings held on 26th September, 2014. The Committee heard. Shri K. Ashokan, Presiding Officer, Debt Recovery Tribunal-II, New Delhi; Shri Ashish Kalia, Presiding Officer, Debt Recovery Tribunal-III, New Delhi, Shri Sudhir Kumar, Former Member, Central Administrative Tribunal and Shri M.R. Madhavan, President PRS Legislative Research, New Delhi on 16<sup>th</sup> December, 2014 as non-official witnesses.

5. In its meeting held on 30th December, 2014, the Committee heard Customs, Excise & Service Tax Appellate Tribunal (CESTAT), National Consumer Disputes Redressal Commission (NCDRC), Income Tax Appellate Tribunal (ITAT), National Green Tribunal (NGT) and representatives of the respective nodal Ministries of Environment, Forests and Climate Change, Consumer Affairs (Department of Consumer Affairs), Food & Public Distribution and Law and Justice (Department of Legal Affairs). On 22nd January, 2015 the Committee heard Armed Forces Tribunal, Appellate Tribunal for Electricity and representatives of Ministry of Defence, Ministry of Power, Ministry of Corporate Affairs and Ministry of Labour and Employment.



6. In its meeting held on 17<sup>th</sup> February, 2015, the Committee heard the Secretary, Department of Legal Affairs, Chairman, Law Commission of India and Shri Arvind P. Datar, Senior Advocate, Supreme Court of India.

7. The Committee during its Study-visit from the 31<sup>st</sup> October to the 6<sup>th</sup> November, 2014 interacted with Regional Benches of Central Administrative Tribunal, Railway Claims Tribunal, Assam State Administrative Tribunal, Company Law Board, *Customs, Excise and Service Tax Appellate Tribunal* and Income Tax Appellate Tribunal at Guwahati and Kolkata. During its Study-visit to Chennai from 27<sup>th</sup> January to 4<sup>th</sup> February, 2015 it interacted with Intellectual Property Appellate Board, Company Law Board, Coastal Aquaculture Authority and Debt Recovery Appellate Tribunal and Associations of Cost Accountants.

8. While considering the Bill, the Committee took note of the following documents/information placed before it:-

- (i) Background note on the Bill submitted by the Department of Justice, Ministry of Law and Justice;
- (ii) Relevant Acts/Rules under which Tribunals/Commissions were set-up;
- (iii) Two Hundred Thirty Second Report (2009) on Retirement Age of Chairpersons and Members of Tribunals - Need for Uniformity of Law Commission of India;
- (iv) Views/suggestions contained in the memoranda received from various organisations/institutions/individuals/experts on the provisions of the Bill and the comments of the Department of Justice thereon;
- (v) Views expressed during the oral evidence tendered before the Committee by various Tribunals other official and non-official witnesses;
- (vi) Replies of Tribunals/Commissions to the Questionnaire prepared by the Secretariat on the issues dealt with by the Bill.
- (vii) Tribunals, Courts and Enforcement Act, 2007;
- (viii) Leggatt Committee Report (2001); and
- (ix) Supreme Court of India Judgments/orders in the matter of:-
  - (i) *L. Chandra Kumar vs. Union Of India and Others* (AIR 1997 S.C. 1125 to 1155);
  - (ii) *Union Of India vs R. Gandhi, President, Madras Bar Association* (Civil Appeal No. 30670 of 2004);
  - (iii) *Rajiv Garg Vs Union of India* (Civil Writ Petition No. 120/2012); and
  - (iv) *Madras Bar Association vs. Union of India (C) No. 150 of 2006*;

9. The Committee considered and adopted its Report in its meeting held on the 25<sup>th</sup> February, 2015.

10. For the facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

NEW DELHI;  
25<sup>th</sup> February, 2015

Dr. E.M. SUDARSANA NATCHIAPPAN  
*Chairman,*  
*Department-related Parliamentary Standing*  
*Committee on Personnel, Public Grievances, Law and Justice*  
*Rajya Sabha*

## ACRONYMS

DRT	Debt Recovery Tribunals
DRAT	Debt Recovery Appellate Tribunals
PCI	Press Council of India
CAT	Central Administrative Tribunal
CLB	Company Law Board
NIT	National Industrial Tribunal
ITAT	Income Tax Appellate Tribunal
CAT	Central Administrative Tribunal
TDSAT	Telecom Disputes Settlement and Appellate Authority
JAC	Judicial Appointment Commission
NTC	National Tribunal Commission

## REPORT

The Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014 intends to provide uniform service conditions with regard to retirement age, tenure of appointment, reappointment, housing allowance, travelling allowance, sumptuary allowance, Leave Travel Concession, leave, conveyance and telephone facility, etc. for Chairpersons and Members of twenty-six Tribunals/Commissions/statutory bodies enumerated in First Schedule of the Bill. Second and Third Schedules of the Bill contain details of perquisites to be provided to the Chairpersons and Members of those entities.

2. The Bill is intended to be an overarching legislation introduced pursuant to the order passed by Hon'ble Supreme Court on 4<sup>th</sup> December, 2012 on the Civil Writ Petition No.-120/2012 in the matter of Rajiv Garg Vs. Union of India which is still pending in the apex court.

3. The attempt of Government to bring in uniformity in service conditions of Chairpersons and Members of Tribunals/Commissions/ statutory bodies is, however, limited to the aforesaid areas; while eligibility conditions and manner of appointment of Chairperson, Vice-Chairperson (if any) and Members (Judicial/Technical), pay and remuneration, grounds and manner of their removal, provisions of supporting staff and infrastructure facilities are precluded from the scope of the Bill. In these respects, there will be no uniformity and Tribunals would continue to be regulated by the respective statute under which they were established.

4. The Committee notes that the Bill is at best only a half baked attempt to bring uniformity in various aspects of the Tribunals constituted under different Acts of the Parliament. The Committee feels that the Government should have used the opportunity provided by the order of Hon'ble Supreme Court in the Rajiv Garg's case to take a holistic look on factors that hamper efficient and independent functioning of Tribunals in the country and come out with a comprehensive Bill that while ensuring uniformity in various aspects amongst Tribunals falling in the same category should have paved the way for independent and efficient functioning of these Tribunals by providing them with independence, security and capacity associated with Courts. The Bill, Committee feels, sadly lacks in providing a blue print for an independent and efficient functioning of the Tribunals in the country.

### **Bodies/Tribunals in the First Schedule**

5. The statutory bodies included in the First Schedule of the Bill have different purposes, nature, composition, status of Chairperson and Members, etc. Bodies included in the First Schedule of the Bill, thus, differ in various respects and there seems to be no intelligible differentia based on which Tribunals have been included in the First Schedule as would be evident from the following paras:

5.1 The Committee was informed that the commonality which run through all those bodies is that all of them are headed either by a retired Judge of the Supreme Court or the High Court. About one-third of Tribunals enumerated in First Schedule to the Bill are

headed by a retired judge of Supreme Court or Chief Justice of High Court. Those Tribunals are -National Green Tribunal, National Consumer Disputes Redressal Commission, Competition Appellate Tribunal, Appellate Tribunal for Electricity, Press Council of India, Telecom Disputes Settlement and Appellate Authority, Securities Appellate Tribunal, Authority for Advance Ruling, Armed Forces Tribunal, Airports Economic Regulatory Authority Appellate Tribunal. The Committee, however, finds that in some Tribunals listed in the First Schedule of the Bill, even persons other than a retired Judge of the Supreme Court or a High Court, are eligible to become Chairperson. The Committee was informed that the Presiding Officer of Debt Recovery Tribunals is of the rank of a District Judge but a Presiding Officer of DRT having three years experience could become the Presiding Officer of DRAT. Similarly, National Industrial Tribunal is headed by a District Judge having three years experience.

5.2 The order of Supreme Court in the Rajiv Garg case relates to bringing in uniformity amongst Tribunals/Commissions operating at the national level. The Schedule on the other hand includes certain bodies such as Coastal Aquaculture Authority and Press Council of India which are not *per se* Tribunal and do not decide *lis* between the parties even though some of the functions to be performed by them are quasi-judicial functions. On the other hand, certain of the appellate bodies have been excluded from the Schedule of the Bill. Some of these bodies are :

- (i). Appellate Authority for Industrial and Financial Reconstruction;
- (ii). Appellate Tribunal for Forfeited Property;
- (iii). Appellate Tribunal under Prevention of Money Laundering;
- (iv). Central Information Commission;
- (v). Employees' Provident Fund Appellate Tribunal; and
- (vi). Inter-State Water Dispute Tribunals

5.3 While some of the Tribunals are single Bench bodies (Debt Recovery Appellate Tribunal, National Industrial Tribunal, National Highways Tribunal), other Tribunals are multi-Bench bodies (Income Tax Appellate Tribunal, Customs Excise and Service Tax Appellate Tribunal, Telecom Disputes Settlement and Appellate Authority).

5.4 Some Tribunals are manned by a sole member (Judicial) while others are manned by judicial and technical members.

5.5 The National Industrial Tribunal is within the system of regular court but has been included under the First Schedule of the Bill.

5.6 While some of the Tribunals are first appellate bodies some others are second appellate bodies, rest are authorities of first instance or regulatory bodies. The Coastal Aquaculture Authority has only regulatory power.

5.7 Except Income Tax Appellate Tribunal and National Industrial Tribunal all other statutory bodies under the First Schedule have been set up after 1976, while most of them

having been constituted by Acts of Parliament under enabling Articles of 323A and 323B of the Constitution which were inserted by 42<sup>nd</sup> Constitutional Amendment.

5.8 The status of Armed Forces Tribunal is different from other Tribunals in view of the Articles 227(4) and 136(2) of the Constitution.

5.9 Appeal against the orders of Armed Forces Tribunal, National Green Tribunal, National Consumer Disputes Redressal Commission and Telecom Disputes Settlement and Appellate Authority lies to the Supreme Court, while appeals against the orders of Central Administrative Tribunal/State Administrative Tribunal lie to Division Bench of High Court after L. Chandra Kumar case (1997).

6. Tribunals are not part of regular judicial system but are alternate dispute resolution mechanisms created mainly for expeditious disposal of cases under the concerned Act under which those have been set up. Even though some of them are complementary and supplemental to the High Court, they are within the supervisory/*writ* jurisdiction of the concerned High Court under Articles 226 and 227 of the Constitution.

7. Press Council of India (PCI) in their written submission have maintained that in view of its composition, function and mandate it should not be placed at par with other autonomous regulatory bodies in the Bill. They, therefore, have desired that service conditions of Chairman and Members of PCI should be out of the Bill to honour legislative intent associated with creation of PCI.

8. The Presiding Officers of Debt Recovery Tribunals, New Delhi who appeared as non-official witnesses, in their deposition submitted that both the Debt Recovery Appellate Tribunal (DRAT) as well as Debt Recovery Tribunal (DRT) are single bench quasi-judicial bodies set up under the Recovery of Debts due to Banks and Financial Institutions Act, 1993. While DRAT has been included under the First Schedule to the Bill. DRTs have been excluded from the First Schedule of the Bill for the purpose of uniformity in service conditions and perquisites. They submitted that the Presiding Officer of DRT is equivalent to the rank of District Judge and Judicial Members of other Tribunals *viz.* Central Administrative Tribunal (CAT), Company Law Board (CLB), National Industrial Tribunal (NIT) and Income Tax Appellate Tribunal (ITAT) are also of the same rank and have been included in the First Schedule the Bill for uniformity purpose. Even a Presiding Officer of DRT having three years experience could become Presiding Officer of DRAT. Currently, Presiding Officer of DRT, Mumbai has been discharging the additional responsibility of Presiding Officer of DRAT, Chennai. The DRT has appellate power and hear appeals from Recovery Officers under Section 30 of the Recovery of Debt due to Banks and Financial Institutions Act, 1993. They have cited that the National Industrial Tribunal which is also headed by a District Judge having three years experience has also been included under the Schedule to the Bill for uniformity purpose. They, therefore, appealed to the Committee to include DRTs under Schedule to the Bill for the sake of parity.

9. Clause 13 of the Bill enables Government to include any other Tribunals/Commissions by Gazette Notification by amending the First Schedule of the Bill.

10. The Chairman of Law Commission has opined that all Tribunals deemed to be having the same status irrespective of whether they are exercising appellate jurisdiction or original jurisdiction, need to be treated uniformly.

11. The Committee is in agreement with the view that all the Tribunals of similar status should be entitled to similar service conditions. The Committee is of the view that for purpose of uniform service conditions, the classification of Tribunals may be based on an intelligible differentia. The Committee feels that for purpose of uniform service conditions etc., the Tribunals headed by a Supreme Court Judge and where appeal against the order of the Tribunal lies to the Supreme Court may form a category distinct from the Tribunal/Commission whose order is appealable to the concerned High Court. The former Tribunals may form the category-I Tribunals while the latter may form category-II Tribunals. The first category may include Tribunals such as Armed Forces Tribunals, National Green Tribunal, National Consumer Disputes Redressal Commission, Telecom Disputes Settlement and Appellate Authority. The second category may include Tribunals/Commissions headed by Supreme Court Judge or Chief Justice of High Court where appeal against their orders goes to High Court. It may include Central Administrative Tribunal/State Administrative Tribunal. The Tribunals headed by a District Judge with certain experience or a person who qualifies to be a District Judge may form the third category.

12. The Committee further notes that the Schedule needs to be revisited and comprehensively revised. All Tribunals created under the Acts of Parliament which fall in any of the three categories should be included and those who do not qualify to be called Tribunals in the strict sense should be excluded from the Bill.

13. The Committee is not in favour of inclusion of regulatory bodies within the Tribunals for purpose of bringing uniformity in service conditions.

#### **Differential Age of Retirement**

14. Clause 4 of the Bill prescribes tenure appointment within following three sets of age of superannuation:--

- (i) Seventy years in the case of Chairperson and Members who have been a Judge of Supreme Court;
- (ii) Sixty seven years in the case of Chairperson and Members who have been a Judge of High Court;
- (iii) Sixty five years in the case of Chairperson and Members who have been qualified to be a Judge of High Court or a domain expert.

A tenure of five years has been prescribed within the age of superannuation in the Bill. A Chairperson and a Member can be re-appointed for another term of five years also. In effect a Chairperson and Members can serve in a Tribunal/Commission for maximum period of ten years. The extant Statutes currently prescribe one retirement age for Chairperson and another retirement age for Vice-Chairperson and Members (except Company Law Board where retirement age for Vice-Chairperson is 65 years and for judicial and technical Members 62 years). Further, retirement age of Chairperson in extant Statutes varies from seventy to sixty two year. The retirement age of Chairperson of seven bodies under the First Schedule of the Bill is seventy years. In respect of the three bodies *viz.*, Central Administrative Tribunal/State Administrative Tribunal, Securities Appellate and Competition Appellate Tribunal, the retirement

age for Chairperson is 68 years. For the rest of the bodies under the Schedule, the retirement age for Chairperson is 65 years except Company Law Board and National Highways Tribunal, where retirement age is 67 years for Chairman and 62 years for Members. The retirement age of Members in the Statutes is mostly 65 or 62 years except National Consumer Disputes Redressal Disputes Commission where 70 years is prescribed as retirement age for Members as well as Chairperson. A table showing comparative statement of tenure and superannuation age of Chairperson, Vice-Chairperson and Members of quasi-judicial entities enumerated in First Schedule of the Bill is placed at **Annexure-II**.

15. The statutes also provide tenure appointment of three to five years for some of the bodies and regular appointment for Chairperson and Members in other bodies *i.e.*, Income Tax Appellate Tribunal, Custom Excise and Service Tax Appellate Tribunal. Nine bodies under the First Schedule of the Bill has a provision for re-appointment for second tenure except for Coastal Aquaculture Authority where re-appointment can be done for two consecutive terms.

16. Three sets of retirement age as proposed in the Bill are based upon the retirement age of Judge of Supreme Court (65 years), Judge of High Court (62 years) and Secretary to Government of India (60 years) by adding period of one term of proposed tenure (*i.e.*, 5 years) as a policy decision of the previous Government of India which was considered by Group of Ministers of that Government.

17. **The Committee does not appreciate the policy of making the retirement age individual-centric rather than post-centric. It apprehends serious flaws therein as a Chairperson or a Member of a Tribunal or Commission would have to retire at age of 70 years if he is a retired judge of Supreme Court or 67 years if he is a retired judge of High Court or 65 years if he qualifies to be a judge of High Court (those who come from the Bar) and those who are domain experts. It would amount to treating same class of individuals differently even though they perform same functions, belong to the same Tribunal, and have the same designation. The retirement age needs to be invariably associated with the post or position to which an individual is appointed and not otherwise. Linking the retirement age to the source of appointment does not appear to be a sound proposition and may not stand judicial scrutiny.**

18. **The Committee feels that the age of retirement should be to be the same for persons holding same positions in the Tribunals in a category as referred to in para 11 above. The Committee further suggests that the retirement age may be uniform for Chairperson and Members of Tribunals included in the same category as in the case of National Consumer Dispute Redressal Commission and Supreme Court and High Court. The Committee notes the Chairman and Members of the Tribunals shall hold office as such for a term of 5 years and shall be eligible for reappointment for another term subject to the conditions that they would cease to hold the office of the Chairman or Members as the case may be on attaining the age of retirement. The Hon'ble Supreme Court in Madras Bar Association case has favoured a term of seven or five years for National Company Law Tribunal on the ground that considerable time is required to achieve expertise in the concerned field and a shorter tenure often leads to a situation that by the time the Members achieve the required knowledge, expertise and efficiency their term will be over. The Committee is of the view that a longer term of 7 years may**



**be provided so that knowledge and expertise gained by the Members may be gainfully utilized. The retirement age of Chairperson and Members of all Tribunals/Commissions should be 70 years.**

### **Issue of Reappointment**

19. On the issue of reappointment, the Committee took note of decision of Hon'ble Supreme Court in the matter of Madras Bar Association vs. Union of India (2014) where Section 8 of National Tax Tribunal Act, 2005 has been declared as unconstitutional as it may impinge upon independent functioning of the Tribunal. The Supreme Court observed as under:

*“....a provision for reappointment would itself have the effect of undermining the independence of the Chairperson/Members of the NTT. Every Chairperson/Member appointed to the NTT, would be constrained to decide matters, in a manner that would ensure his reappointment in terms of Section 8 of the NTT Act. His decisions may or may not be based on his independent understanding. We are satisfied, that the above provision would undermine the independence and fairness of the Chairperson and Members of the NTT Since the NTT has been vested with jurisdiction with earlier lay with the High Courts, in all matters of appointment, and extension of tenure, must be shielded from executive involvement.”*

The Clause 4 of the Bill is a replica of Clause 8 of the National Tax Tribunal Act, 2005. The Committee took note that reappointment provisions exists in some of the existing Acts under which Tribunals and Commissions have been set up.

20. The Committee apprehends that Clause 4 of the Bill is susceptible to be challenged and struck down, in view of aforesaid decision of the Supreme Court. Most of the stakeholders have expressed similar apprehension in their written as well as oral submissions. The Chairman of Law Commission of India has also expressed a similar view. The Secretary, Department of Legal Affairs in his oral submission has, however, stated that for reappointment, the selection process is the same as provided for the fresh appointment in the relevant statute and as such, in his view Clause 4 of the Bill appears not to be unconstitutional as some of the extant statutes already have similar provisions. **The Committee, therefore, is of the view that the provision relating to reappointment may be omitted particularly as the Committee has already recommended a uniform tenure upto seventy years for Chairman and Members of the Tribunals.**

21. **Committee also dwelt upon at length on the need of making regular appointments in the Tribunals in place of tenure appointments. The Committee noted that system of regular appointment is in existence in Income Tax Appellate Tribunal and Customs Excise and Service Tax Appellate Tribunal. It was felt that such appointments may be needed to make Tribunals more vibrant and to facilitate induction of young and talented experts and judicial officers with a reasonable length of experience in the related field. The tenure posting appears to be less attractive to the Advocates and other professionals.**

22. **The Committee, however, notes that lack of promotional prospects in system of regular recruitment may hinder the prospects of attracting best available talent in the**

field. The Committee, therefore, would like the Government to examine the possibility of making regular appointments in all Tribunals after suitably addressing the issue of career progression of such directly recruited Chairperson/Members. The Committee feels that the expertise and experience of the Chairperson and Members of Tribunal/Commission can be utilised in the concerned High Court as appeal against the order of Tribunal invariably goes to High Court except for Armed Forces Tribunal, National Green Tribunal, National Consumer Dispute Redressal Commission and Telecom Disputes Settlement and Appellate Authority.

23. Although the existing statutes have provision for a sitting or retired judge of Supreme Court or High Court to become Chairperson or Member of certain Tribunals/Commissions, only retired judges have been manning the positions of Chairperson or members of the Tribunals. The Committee appreciates that sitting judges of the Supreme Court and High Courts, in view of their higher status conferred by the Constitution may not like to come to Tribunals, which certainly are not at par with the Supreme Court or the High Courts even though salary and allowances may be same in Tribunals and Supreme Court/High Courts. Even bureaucrats opt for the Tribunal at the fag end of their career or after retirement. Consequently, the Tribunals/Commissions have become a haven for retired judges and bureaucrats. The tenure appointment in those bodies gives impetus to the prevalent practice.

24. The post retirement assignment appears to be impinging upon independent functioning of judicial and quasi-judicial bodies as there is no cooling off period for judges and bureaucrats before taking up post retirement assignment in Tribunal/Commission.

#### **Applicability of the Act to incumbent Chairpersons and Members**

25. Clauses 3 and 9 relate to applicability of the provisions of Act, to incumbent Chairperson and Members of the statutory body in the First Schedule of Bill. The provisions in the Bill relating to new tenure and retirement age would not be applicable to incumbent Chairperson and Members in view of *proviso* to Clause 3 of the Bill. However, the new prerequisites as proposed under Second and Third Schedules of the Bill would be applicable to the incumbent Chairperson and Members due to over-riding effect of Clause 9 upon Clause 3 of the Bill.

26. The retirement age of Members of Tribunal is proposed to be 67 or 65. The existing retirement age of Members of Income Tax Appellate Tribunal, Customs, Excise and Service Tax Appellate Tribunal, Securities Appellate Tribunal, Railway Claim Tribunal, Authority for Advance Ruling, Company Law Board, and Appellate Tribunal for Foreign Exchange is 62 years and, therefore, as per provision of the Bill, the existing Members of these Tribunals would not get the benefit of enhanced retirement age.

27. As per Clause 9, however, allowance are being made uniform for Chairpersons and Members of all Tribunals. This is resulting in reduced housing and sumptuary allowances for some existing Chairpersons and Members who are retired Judges of Supreme Court or High Court as compared to what they are entitled to at present. On

the other hand, some existing Members/Chairpersons would be entitled to higher allowances than what they are getting at present.

28. A suggestion has been made that provisions of this Bill may be made applicable to only Members and Chairpersons who join after coming in force of the provisions of the Bill and existing incumbent to the office of the Chairpersons and Members of various Tribunals may be given an option either to be regulated by the provisions of the Bill or the extant provisions as applicable to them. The Committee feels that the Government may consider the suggestion.

#### **Leave Sanctioning Authority**

29. The leave sanctioning authority for the Chairman and for Members in the absence of Chairman has been proposed in the Bill to be the Minister in-charge under Clause 20. The Committee noted that the President of India is leave sanctioning authority in respect of Chairman of some of the Tribunals *e.g.*, Telecom Disputes Settlement and Appellate Authority, National Consumer Disputes Redressal Commission and Railway Claims Tribunal. **In case, the proposed provision in the Bill is agreed to, it would supersede the provisions of these Acts where President is the leave sanctioning authority. The Committee is not in agreement with the Clause 20 of Bill mainly for two reasons. Firstly, if leave sanctioning authority remains with the ministry-in-charge it would affect the independence of the Tribunal as the concerned Ministry is one of the parties to the disputes that come for adjudication before the Tribunal and secondly, it affects the status of Tribunals. The Committee wishes that such an authority should rest with an independent agency, like National Commission for Tribunal, which has been dealt with in the later part of this Report.**

#### **Inclusion of grounds of removal under the Bill**

30. The Committee has been apprised that differential grounds of removal exist in the respective Acts/Rules for the twenty-six Tribunals covered under the Schedule of the Bill. Some, like CAT, Securities Appellate Tribunal, Armed Forces Tribunal, Intellectual Property Law Board, provide for only two grounds for removal, *i.e.* proven misbehavior or incapacity. Some others, such as the National Green Tribunal, TDSAT provide for five grounds- insolvency, conviction for moral turpitude, physical or mental incapacity, acquiring interest prejudicial to its functions and abusing his position in a manner that is against public interest. **The Committee feels that the grounds for removal of Chairman and Members need to be uniform and be included in the present Bill. The Law Secretary in his oral evidence has also agreed to such proposal. The Government may consider including grounds of removal in the present Bill.**

#### **Need for a comprehensive Bill**

31. Majority of Tribunals have been created as alternative disputes resolution mechanism for expeditious disposal of cases and also to reduce pressure upon concerned High Courts. But backlog of cases have been mounting in those bodies. As on 31st December, 2014 position of cases pending in certain Tribunal of Commissions is given below:-

**Pendency of cases as on 31st December, 2014**

Sl.No.	Name of quasi-judicial entity	Pendency
1.	Income Tax Appellate Tribunal	99349
2.	Customs, Excise and Service Tax Appellate Tribunal	96039
3.	Railway Claim Tribunal	44756
4.	Central Administrative Tribunal	38209
5.	Armed Forces Tribunal	15603
6.	Company Law Board	4201
7.	National Green Tribunal	2875
8.	Debt Recovery Appellate Tribunal	1010
9.	National Industrial Tribunal	750
10.	Competition Appellate Tribunal	162
11.	Cyber Appellate Tribunal	34

32. Some of the Tribunals *i.e.*, National Highway Tribunals, Cyber Appellate Tribunal and Airport Economic Regulatory Appellate Authority are dysfunctional due to vacancies. The post of Presiding Officer in all eight Benches of National Highway Tribunal (which is a single Member Bench) located at Chandigarh, Lucknow, Kolkata, Mumbai, Jabalpur, Bengluru, Chennai and Guwahati are lying vacant. The post of Presiding Officer in Cyber Appellate Tribunal is vacant since July, 2011. Therefore, it cannot function in the absence of its Chairperson in view of Section 49 of Information Technology Act, 2000. The Competition Appellate Tribunal was assigned additional charge of Airport Economic Regulatory Appellate Authority since its inception till 20th August, 2014. Now it is dysfunctional.

33. The vacancies position as on 31<sup>st</sup> December, 2014 in certain Tribunals under First Scheduled to the Bill (**Annexure-III**). The pendency in those Tribunals has defeated the purpose for which those Tribunals have been created as parallel to High Courts. It is due to the fact that those bodies have not been provided with the requisite manpower and/or infrastructure facilities, as a result of which Tribunals system could not achieve the objective for which those have been created.

34. The Chairman, Law Commission while deposing before the Committee has drawn the attention of the Committee to the change made in the Tribunals system in United Kingdom on the basis of Leggat Committee. On the basis of recommendations of Leggat Committee (2001), the Tribunals, Courts and Enforcement Act, 2007 was enacted by the British Parliament. Under that Act an independent body called Judicial Appointment Commission (JAC) has been created to select candidates for Tribunal for appointment by Law Chancellor. The Law Chancellor is also responsible for providing administrative and staff support to all Tribunals. A permanent Tribunal service has also been created for manning the Tribunals in UK.

35. He has suggested for setting up of a National Tribunal Commission and also to introduce a common cadre based Tribunal service to be selected by that Commission and to be appointed by Law Minister/President of India. He also suggested that all Tribunals service should be placed under Ministry of Law and Justice for independent functioning of those bodies. Similar view has been expressed by the apex court in L. Chandra Kumar Case. At present, Income-Tax Appellate Tribunal and Appellate Tribunal for Foreign Exchange are under the Ministry of Law and Justice (Department of Legal Affairs). Other Tribunals are under their nodal Ministries for the sake of convenience. Some of the Tribunals like Income- Tax Appellate Tribunal, Railway Claims Tribunal, Company Law Board, Telecom Disputes Settlement and Appellate Authority, Appellate Tribunal for Foreign Exchange, National Green Tribunal have favoured the observation of Supreme Court of India in the interest of independent functioning of those bodies.

**36. The Committee expresses its concern over the sad state of affairs in the Tribunals/Commissions. Some of them are dysfunctional due to large scale vacancies. Some of the bodies cannot function without the presiding officer in view of the position in the respective Acts. The post of presiding officer of Cyber Appellate Tribunal is vacant therefore the body is dysfunctional in view of Section 49 of Information Technology Act, 2000.**

**37. The Committee has been apprised that most of these Tribunals have not been provided with adequate residential accommodations, proper office infrastructure or adequate supporting staff, many of the posts of those bodies are lying vacant and also cases are mounting in those bodies and the purpose for which those bodies were created have been defeated.**

**38. It is time for Government to provide necessary infrastructure, human and financial resource to the Tribunals for speedy delivery of Justice. The Committee, therefore, endorses the view of Law Commission of India for creation of National Tribunals Commission to oversee selection process, eligibility criteria for appointment introduction of common eligibility criteria for removal of Chairman and Members as also for meeting the requirement of infrastructural and financial resources. The Government may improve the Bill by bringing in a comprehensive legislation proposing uniform condition of service with regard to eligibility conditions for appointment, ground of removal, uniform retirement age, allowances and other perquisites for Chairperson and Members of Tribunals/Commissions belonging to the same category and these functions and responsibilities be vested in the National Tribunal Commission may be created for the purpose.**

**39. The Committee also feels that NTC should deal with Tribunals only. The regulatory Bodies which do not perform quasi-judicial function, should be kept out of purview of this Bill and may be dealt with separately.**

**40. While considering this Bill, the Committee's attention was drawn to the following issues which are very essential to the efficient and independent functioning of quasi-judicial bodies:-**

- (i) The authority in decision making of Government should endeavour to deliver fair justice in their day to day functioning and decision taking by**

proper application of rules, regulations, judicial precedents, directions, etc., as a result of which appeals against their decision could be reduced to minimum and cases before Tribunals will substantially go down.

- (ii) Appeals before the tribunals involves cost which is borne out of tax payers money. Presently no cost is levied as court fee in the tribunal proportionate to the quantum of relief sought. The Government should contemplate to impose fee for regulating appeals as well as generating revenue to meet expenditure required for infrastructure, supporting staff, etc.
- (iii) It should be imperative upon the Government to categorically mention in the Financial Statement of the Bill proposing to create a quasi-judicial body, the cost of setting up of a quasi-judicial body including provision of infrastructure and salary. Committee wishes that in the future Bills the nodal ministry as well as the Ministry of Law and Justice should ensure that such details in the Financial Statement appended to the Bill are invariably given.

41. The Committee strongly feels that it is high time for the Government to positively look into the issues raised above.

## RECOMMENDATIONS/OBSERVATIONS OF THE COMMITTEE AT A GLANCE

1. The Committee, is in agreement with the view that all the Tribunals of similar status should be entitled to similar service conditions. The committee is of the view that for purpose of uniform service conditions, the classification of Tribunals may be based on an intelligible differentia. The committee feels that for purpose of uniform service conditions etc., the Tribunals headed by a Supreme Court Judge and where appeal against the order of the Tribunal lies to the Supreme Court may form a category distinct from the Tribunal/Commission whose order is appealable to the concerned High Court. The former Tribunals may form the category-I Tribunals while the latter may form category-II Tribunals. The first category may include Tribunals such as Armed Forces Tribunals, National Green Tribunal, National Consumer Disputes Redressal Commission, Telecom Disputes Settlement and Appellate Authority. The second category may include Tribunals/Commissions headed by Supreme Court Judge or Chief Justice of High Court where appeal against their orders goes to High Court. It may include Central Administrative Tribunal/State Administrative Tribunal. The Tribunals headed by a District Judge with certain experience or a person who qualifies to be a District Judge may form the third category. [Para 11]

2. The Committee further notes that the Schedule needs to be revisited and comprehensively revised. All Tribunals created under the Acts of Parliament which fall in any of the three categories should be included and those who do not qualify to be called Tribunals in the strict sense should be excluded from the Bill. [Para 12]

3. The Committee is not in favour of inclusion of regulatory bodies within the Tribunals for purpose of bringing uniformity in service conditions. [Para 13]

4. The Committee does not appreciate the policy of making the retirement age individual-centric rather than post-centric. It apprehends serious flaws therein as a Chairperson or a Member of a Tribunal or Commission would have to retire at age of 70 years if he is a retired judge of Supreme Court or 67 years if he is a retired judge of High Court or 65 years if he qualifies to be a judge of High Court (those who come from the Bar) and those who are domain experts. It would amount to treating same class of individuals differently even though they perform same functions, belong to the same Tribunal, and have the same designation. The retirement age needs to be invariably associated with the post or position to which an individual is appointed and not otherwise. Linking the retirement age to the source of appointment does not appear to be a sound proposition and may not stand judicial scrutiny. [Para 17]

5. The Committee feels that the age of retirement should be to be the same for persons holding same positions in the Tribunals in a category as referred to in para 11 above. The Committee further suggests that the retirement age may be uniform for Chairperson and Members of Tribunals included in the same category as in the case of

National Consumer Dispute Redressal Commission and Supreme Court and High Court. The Committee notes the Chairman and Members of the Tribunals shall hold office as such for a term of 5 years and shall be eligible for reappointment for another term subject to the conditions that they would cease to hold the office of the Chairman or Members as the case may be on attaining the age of retirement. The Hon'ble Supreme Court in Madras Bar Association case has favoured a term of seven or five years for National Company Law Tribunal on the ground that considerable time is required to achieve expertise in the concerned field and a shorter tenure often leads to a situation that by the time the Members achieve the required knowledge, expertise and efficiency their term will be over. The Committee is of the view that a longer term of 7 years may be provided so that knowledge and expertise gained by the Members may be gainfully utilized. The retirement age of Chairperson and Members of all Tribunals/Commissions should be 70 years. [Para 18]

6. The Committee, therefore, is of the view that the provision relating to reappointment may be omitted particularly as the Committee has already recommended a uniform tenure upto seventy years for Chairman and Members of the Tribunals. [Para 20]

7. Committee also dwelt upon at length on the need of making regular appointments in the Tribunals in place of tenure appointments. The Committee noted that system of regular appointment is in existence in Income Tax Appellate Tribunal and Customs Excise and Service Tax Appellate Tribunal. It was felt that such appointments may be needed to make Tribunals more vibrant and to facilitate induction of young and talented experts and judicial officers with a reasonable length of experience in the related field. The tenure posting appears to be less attractive to the Advocates and other professionals. [Para 21]

8. The Committee, however, notes that lack of promotional prospects in system of regular recruitment may hinder the prospects of attracting best available talent in the field. The Committee, therefore, would like the Government to examine the possibility of making regular appointments in all Tribunals after suitably addressing the issue of career progression of such directly recruited Chairperson/Members. The Committee feels that the expertise and experience of the Chairperson and Members of Tribunal/Commission can be utilised in the concerned High Court as appeal against the order of Tribunal invariably goes to High Court except for Armed Forces Tribunal, National Green Tribunal, National Consumer Dispute Redressal Commission and Telecom Disputes Settlement and Appellate Authority. [Para 22]

9. Although the existing statutes have provision for a sitting or retired judge of Supreme Court or High Court to become Chairperson or Member of certain Tribunals/Commissions, only retired judges have been manning the positions of Chairperson or members of the Tribunals. The Committee appreciates that sitting judges of the Supreme Court and High Courts, in view of their higher status conferred by the Constitution may not like to come to Tribunals, which certainly are not at par with the Supreme Court or the High Courts even though salary and allowances may be same in Tribunals and Supreme Court/High Courts. Even bureaucrats opt for the Tribunal at



the fag end of their career or after retirement. Consequently, the Tribunals/ Commissions have become a haven for retired judges and bureaucrats. The tenure appointment in those bodies gives impetus to the prevalent practice. [Para 23]

10. The post retirement assignment appears to be impinging upon independent functioning of judicial and quasi-judicial bodies as there is no cooling off period for judges and bureaucrats before taking up post retirement assignment in Tribunal/ Commission. [Para 24]

11. As per Clause 9, however, allowance are being made uniform for Chairpersons and Members of all Tribunals. This is resulting in reduced housing and sumptuary allowances for some existing Chairpersons and Members who are retired Judges of Supreme Court or High Court as compared to what they are entitled to at present. On the other hand, some existing Members/Chairpersons would be entitled to higher allowances than what they are getting at present. [Para 27]

12. A suggestion has been made that provisions of this Bill may be made applicable to only Members and Chairpersons who join after coming in force of the provisions of the Bill and existing incumbent to the office of the Chairpersons and Members of various Tribunals may be given an option either to be regulated by the provisions of the Bill or the extant provisions as applicable to them. The Committee feels that the Government may consider the suggestion. [Para 28]

13. In case, the proposed provision in the Bill is agreed to, it would supersede the provisions of these Acts where President is the leave sanctioning authority. The Committee is not in agreement with the Clause 20 of Bill mainly for two reasons. Firstly, if leave sanctioning authority remains with the ministry-in-charge it would affect the independence of the Tribunal as the concerned Ministry is one of the parties to the disputes that come for adjudication before the Tribunal and secondly, it affects the status of Tribunals. The Committee wishes that such an authority should rest with an independent agency, like National Commission for Tribunal, which has been dealt with in the later part of this Report. [Para 29]

14. The Committee feels that the grounds for removal of Chairman and Members need to be uniform and be included in the present Bill. The Law Secretary in his oral evidence has also agreed to such proposal. The Government may consider including grounds of removal in the present Bill. [Para 30]

15. The Committee expresses its concern over the sad state of affairs in the Tribunals/Commissions. Some of them are dysfunctional due to large scale vacancies. Some of the bodies cannot function without the presiding officer in view of the position in the respective Acts. The post of presiding officer of Cyber Appellate Tribunal is vacant therefore the body is dysfunctional in view of Section 49 of Information Technology Act, 2000. [Para 36]

16. The Committee has been apprised that most of these Tribunals have not been provided with adequate residential accommodations, proper office infrastructure or adequate supporting staff, many of the posts of those bodies are lying vacant and also cases are mounting in those bodies and the purpose for which those bodies were created have been defeated. [Para 37]

17. It is time for Government to provide necessary infrastructure, human and financial resource to the Tribunals for speedy delivery of Justice. The Committee, therefore, endorses the view of Law Commission of India for creation of National Tribunals Commission to oversee selection process, eligibility criteria for appointment introduction of common eligibility criteria for removal of Chairman and Members as also for meeting the requirement of infrastructural and financial resources. The Government may improve the Bill by bringing in a comprehensive legislation proposing uniform condition of service with regard to eligibility conditions for appointment, ground of removal, uniform retirement age, allowances and other perquisites for Chairperson and Members of Tribunals/Commissions belonging to the same category and these functions and responsibilities be vested in the National Tribunal Commission may be created for the purpose. [Para 38]

18. The Committee also feels that NTC should deal with Tribunals only. The regulatory Bodies which do not perform quasi-judicial function, should be kept out of purview of this Bill and may be dealt with separately. [Para 39]

19. While considering this Bill, the Committees' attention was drawn to the following issues which are very essential to the efficient and independent functioning of quasi judicial bodies :- [Para 40]

- (i) The authority in decision making of Government should endeavour to deliver fair justice in their day to day functioning and decision taking by proper application of rules, regulations, judicial precedents, directions, etc., as a result of which appeals against their decision could be reduced to minimum and cases before Tribunals will substantially go down.
- (ii) Appeals before the tribunals involves cost which is borne out of tax payers money. Presently no cost is levied as court fee in the tribunal proportionate to the quantum of relief sought. The Government should contemplate to impose fee for regulating appeals as well as generating revenue to meet expenditure required for infrastructure, supporting staff, etc.
- (iii) It should be imperative upon the Government to categorically mention in the Financial Statement of the Bill proposing to create a quasi-judicial body, the cost of setting up of a quasi judicial body including provision of infrastructure and salary. Committee wishes that in the future Bills the nodal ministry as well as the Ministry of Law and Justice should ensure that such details in the Financial Statement appended to the Bill are invariably given.

20. The Committee strongly feels that it is high time for the Government to positively look into the issues raised above. [Para 41]



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# MINUTES

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XVI  
SIXTEENTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 3.00 P.M. on Thursday, the 13<sup>th</sup> March, 2014 in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

1. Shri Shantaram Naik — *Chairman*

**RAJYA SABHA**

2. Shri Sukhendu Sekhar Roy

**LOK SABHA**

3. Shri N.S.V.Chitthan
3. Shri D.B.Chandre Gowda
4. Shri Arjun Meghwal
5. Shri S.S.Ramasubhu
6. Shri S. Semmalai
7. Shri S.D.Shariq
8. Shri Vijay Bahadur Singh
9. Dr. Prabha Kishore Taviad
10. Shri Suresh Kashinath Taware

**SECRETARIAT**

Shri Alok Kumar Chatterjee, *Joint Secretary*

Shri K. P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

**OFFICIAL WITNESSES**

**Department of Justice, Ministry of Law & Justice**

1. Shrimati Anita Kaul, Secretary
  2. Shri Atul Kaushik, Joint Secretary
  3. Shri Praveen Garg, Joint Secretary
  4. Shri Anil Kumar Gulati, Joint Secretary
2. The Chairman of the Committee welcomed the Members and Secretary, Department of Justice and other Officers of the Department, Ministry of Law and Justice. He then requested the Secretary, Department of Justice to make a presentation, *inter-alia*, clarifying the various

provisions of The Delhi High Court (Amendment) Bill, 2014 and The Tribunals, Appellate Tribunals & Other Authorities (Conditions of Service) Bill, 2014.

3. \* \* \*

4. \* \* \*

### **The Tribunals, Appellate Tribunals & Authorities (Conditions of Service) Bill, 2014**

5. The Secretary gave the background which necessitated the proposed amendment and opined that the Tribunals, Appellate Tribunals & Other Authorities (Conditions of Service) Bill, 2014, *inter alia*, intends to ensure uniform service conditions, allowances and perquisites for Chairman and Members of 26 quasi-judicial bodies, including the Central Administrative Tribunal, State Administrative Tribunals, National Green Tribunal, Income Tax Appellate Tribunal, the Press Council of India, etc. On the basis of decision of the Inter-Ministerial Group (IMG), the Department of Justice has been designated as Central agency for administrative control of those Tribunals and accordingly proposed to provide uniform tenure, age of retirement and residential accommodation of members of Tribunals through a common legislation.

6. Responding to the query about different retirement age, she mentioned that appointment to Tribunals is tenure based and retirement age is calculated on the basis of retirement of the incumbent and therefore age of retirement is 70 years for a Supreme Court Judge, 67 years for a High Court Judge and 65 years for others. She further opined that they can be appointed for one term of a maximum of five years so long as they satisfy the criteria of age of retirement and there is no bar on appointment on another Tribunal, provided that the Member is within the stipulated age of retirement. She also apprised the Committee about the accommodation, medical and LTC facilities to be provided to Chairmen and Members of the Tribunals.

7. She further added that Chairpersons/Members of Tribunals may not be allowed to take up arbitration work while functioning on Tribunals. However, if they have arbitration work at hand at the time of their appointment, competent authority may permit them to complete such arbitration after examining the request on a case-to-case basis. Further Chairpersons/Members of Tribunals shall have to declare their assets/ liabilities and financial other interests at the time of their appointment, which also will be placed in their personal records.

8. Several queries arising out of the presentation were raised by Members regarding the various provisions of the Bill, and the same were clarified by the Secretary.

*(The witnesses then withdrew)*

9. The Verbatim record of the proceedings of the meeting was kept.

10. The Committee then adjourned at 4:01 P.M.

## RECORD OF DISCUSSION

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 11.00 A.M. on Thursday, the 24<sup>th</sup> March, 2014 in Committee Room 'B', Ground Floor, Parliament House, New Delhi.

### **MEMBERS PRESENT**

1. Shri Shantaram Naik — *Chairman*

### **RAJYA SABHA**

2. Shri Sukhendu Sekhar Roy

### **LOK SABHA**

3. Shri S. Semmalai
4. Shri S.D.Shariq
5. Shri Vijay Bahadur Singh

### **SECRETARIAT**

Shri Alok Kumar Chatterjee, *Joint Secretary*

Shri K. P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

### **I. Department of Personnel & Training**

1. Shri Bhanu Pratap Sharma, Additional Secretary
2. Ms. Archana Verma, Joint Secretary

### **II. Ministry of Environment and Forests**

1. Shri Shashi Shekhar, Additional Secretary
2. Shri Anil Sant, Joint Secretary

### **III. Department of Justice**

Shri Atul Kaushik, Joint Secretary

2. The Chairman of the Committee welcomed the Members of the Committee and Additional Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Additional Secretary, Ministry of Environment and Forests, representatives of the Department of Justice, Ministry of Law and Justice and other senior officials of all three Ministries. He then requested the Additional Secretary, Department of Personnel and Training to make a presentation, *inter-alia*, clarifying the various provisions of



The Tribunals, Appellate Tribunals & Other Authorities (Conditions of Service) Bill, 2014 and requested Additional Secretary, Environment and Forests thereafter to make his presentation on the Bill.

3. Initiating his presentation on the Bill, the Additional Secretary, Department of Personnel and Training made comparative statement of the terms and conditions as they exist under the Administrative Tribunal Act, 1985, *vis-a-vis* the proposal in the Bill. He informed that Department of Personnel and Training broadly agrees with the proposed changes in terms of office, pensions, salary and other allowances provided. On Terms of Office of the Chairman and Members of the Tribunals of maximum five (5) years for Chairpersons and Members with a maximum age of 70 years for a Judge of the Supreme Court, 67 years for Chief Justice or Judge of a High Court and 65 years in case of others, he felt that Chairman and Members may be re-appointed for one more term of maximum of five (5) years so long as they satisfy the criterion of age of retirement.

4. Several queries arising out of the presentation were raised by Members regarding the various provisions of the Bill, and the same were clarified by the Additional Secretary, Department of Personnel and Training.

5. Welcoming the introduction of amendment in the Bill, Additional Secretary, Ministry of Environment and Forests felt that the Bill will remove ambiguity in the existing National Green Tribunal Act and also the distinction between a judicial member and an expert member in terms of perks, allowances and salaries. He also suggested that an Expert Member or a Technical Member under the National Green Tribunal Act can come on deputation also. He also pointed out that there is no provision for reappointment in the National Green Tribunal Act whereas in the proposed Bill there is a provision for reappointment also even though the upper limit of age has been prescribed. He further apprised the Members number of High Courts have by and large been directing the persons to approach National Green Tribunal wherever a case involves adjudication of environmental issues and today the number of cases pending in National Green Tribunal in Delhi Bench is about 690 odd cases and in Chennai it is about 672. Queries arising out of the presentation were raised by Members regarding the various provisions of the Bill, and the same were clarified by the Additional Secretary, Ministry of Environment and Forests.

*(The witnesses then withdrew)*

6. The Verbatim record of the proceedings of the meeting was kept.

7. The Committee then adjourned at 11:45 A.M.

I  
FIRST MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 11:00 A.M. on Friday, the 12<sup>th</sup> September, 2014 in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

**RAJYA SABHA**

2. Ms. Anu Aga
3. Shri Aayanur Manjunatha
4. Shri Majeed Memon
5. Shri Parimal Nathwani
6. Shri Sukhendu Sekhar Roy
7. Shri Ramachandra Prasad Singh

**LOK SABHA**

8. Shri P.P. Chaudhary
9. Choudhary Mehboob Ali Kaiser
10. Shri Santosh Kumar
11. Shri S. Bhagwant Mann
12. Shri Anoop Mishra
13. Shri B.V. Naik
14. Shri Vincent H. Pala
15. Shri V. Panneerselvam
16. Shri Vithalbhai Hansrajbhai Radadiya
17. Dr. A. Sampath
18. Shri Bharat Singh
19. Shri Udhayakumar M.
20. Dr. Anshul Verma
21. Shri Tariq Anwar

**SECRETARIAT**

Dr. D.B. Singh, *Additional Secretary*

Shri K.P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

Shrimati Niangkhanem Guite, *Assistant Director*

**A. Ministry of Personnel, Public Grievances and Pensions****I. Department of Personnel and Training**

1. Shri Sanjay Kothari, Secretary;
2. Shri Alok Kumar, Joint Secretary;
3. Shri P.K. Das, Joint Secretary;
4. Ms. Archana Verma, Joint Secretary;
5. Ms. Mamta Kundra Joint Secretary;
6. Shri Jishnu Barua Joint Secretary;
7. Shri Prakash, Director;
8. Shri M. Devaraj, Director;
9. Ms. Gayatri Mishra, Director;
10. Ms. Anshu Sinha, Director;
11. Shri Diwakar Nath Misra, Director;
12. Shri V.M. Rathnam, Director; and
13. Shri N. Raja, Director.

**II. Union Public Service Commission**

1. Shri Ashim Khurana, Secretary;
2. Shri R.K. Arora, Additional Secretary;
3. Shri Rajeev Chandra Joshi, Additional Secretary;
4. Shri Mohit Chandra, Joint Secretary;
5. Shri Sanjay Mehrishi, Joint Secretary;
6. Ms. Manju Kumar, Joint Secretary; and
7. Shri T.V. Dinesh, Joint Secretary.

**III. Department of Administrative Reforms and Public Grievances and Department of Pension & Pensioner's Welfare**

1. Shri N. Ravi Shanker, Secretary;
2. Shri Arun Jha, Additional Secretary;
3. Shrimati Vandana Sharma, Joint Secretary;
4. Shri V.A. Chavda, Director;

5. Shri K. Nagaraja; Director;
6. Shri Aditya Joshi, Director;
7. Ms. Tripti P. Ghosh, Director; and
8. Shri Sumant Narain, Director.

2. \* \* \*

3. He informed the Members that two Bills, namely, the Delhi High Court (Amendment) Bill, 2014 and the Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014 have been referred to the Committee by Hon'ble Chairman, Rajya Sabha to complete its examination and report by 31st October, 2014. He suggested that a Press Communique soliciting comments/suggestions on those two Bills from stake holders, may be issued by the Secretariat which was duly endorsed by the Committee.

4. Elaborating the provisions of both the Bills, he mentioned that there is a need to interact with Registrar-General of High Court of Delhi and Judicial Officers in charge of registry of District Courts in Delhi, Bar Associations of High Court of Delhi and District Courts in Delhi on the Delhi High Court (Amendment) Bill in view of proposed change in pecuniary jurisdiction of both the Courts. He also suggested interaction with Members of Twenty Six quasi-judicial bodies whose service conditions, remuneration, pension, retirement age, etc. have been proposed to be made uniform in the Tribunal Bill, in order to assess case load, disposal rate, vacancy position and other related problems in those bodies. He proposed a study visit of the Committee to Guwahati, Shillong and Kolkatta to interact with some of those Tribunals/ Commissions specified in the First Schedule to the Bill, from 13<sup>th</sup> September to 17<sup>th</sup> October, 2014, which was duly endorsed by this Committee.

5. \* \* \*

5.1. \* \* \*

6.0 \* \* \*

6.1. \* \* \*

7. \* \* \*

8. \* \* \*

*(The witnesses then withdrew)*

9. The verbatim record of the proceedings of the meeting was kept.

10. The Committee adjourned at 1.26 P.M. to meet again at 11.00 A.M. on Friday, the 19<sup>th</sup> September, 2014.

III  
THIRD MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 3:00 P.M. on Friday, the 26<sup>th</sup> September, 2014 in Committee Room '63', First Floor, Parliament House, New Delhi.

**MEMBERS PRESENT**

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

**RAJYA SABHA**

2. Shri Majeed Memon
3. Shri Sukhendu Sekhar Roy

**LOK SABHA**

4. Shri P.P. Chaudhary
5. Shri Abu Hasem Khan Chowdhury
6. Shri Choudhary Mehboob Ali Kaiser
7. Shri Santosh Kumar
8. Shri Vincent H. Pala
9. Dr. A. Sampath
10. Shri Bharat Singh
11. Shri Udhayakumar M.
12. Shri Varaprasad Rao Velagapalli
13. Dr. Anshul Verma
14. Shri Tariq Anwar

**SECRETARIAT**

Dr. D.B. Singh, *Additional Secretary*

Shri K.P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

Shrimati Niangkhanem Guite, *Assistant Director*

## Ministry of Law & Justice

### Department of Justice

1. Ms. Anita Kaul, Secretary;
2. Shri Atul Kaushik, Joint Secretary; and
3. Shri Y.M. Pande, Director.

2. \* \* \*
3. \* \* \*

4. The Secretary, Department of Justice, in her deposition submitted that the Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014 has been introduced as a sequel to a few landmark judgments of Supreme Court of India [L. Chandra Kumar Case (1997), R. Gandhi Case (2010) and Rajiv Garg Case (on going)]. Thereafter, she requested the Joint Secretary concerned to make a power-point presentation on the Bill. While making power point presentation, the concerned Joint Secretary submitted that the appointment of Chairman and Members of Tribunals rests with the administrative Ministry. The Department of Justice has been given the mandate to bring uniformity in matters of age of retirement, salary, pension, allowance, accommodation, medical facilities, oath of office and secrecy, leave travel concession, etc. on the basis of the recommendations of the Group of Ministers. He added that the retirement age of Chairman and Members of Tribunals should be on the basis of tenure rather than age in view of different ages of appointment of judicial as well as domain specific expert members.

5. Members pointed out that three different retirement ages for the Members of tribunal defeats the objective of the Bill which intends to establish uniformity of service conditions of quasi-judicial bodies specified in First Schedule to the Bill. They were of the view that uniformity of superannuation age should be preferable to the uniformity of tenure. It was pointed out that the tribunal should not be a rehabilitation place for retired officers from executive and judiciary rather it should encourage serving judicial officers from subordinate judiciary, judges from High Courts and Supreme Court and Members of Bar of High Courts in appointment as Member of tribunals. In that context, a cooling up period of two years was proposed for the retired officers from Executive and Judiciary.

6. The Members pointed out variance in language of oath and secrecy specified in the Fourth Schedule to the Bill and Third Schedule to the Constitution of India. Chairman suggested the Secretary to seek the opinion of Attorney-General on the recent judgment of Supreme Court on the constitutionality and the legality of setting up of National Tax Tribunal which has direct bearing on the quasi-judicial system of the country. He suggested that Quasi-Judicial Appointment Commission on the line of National Judicial Commission might be contemplated for appointment of Chairman and Members of Tribunals.

7. While responding to the queries of Members, the Secretary submitted that issues of uniformity of tenure and uniformity of age of retirement was considered by the Group of

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\*\*\* Relate to some other matters.

Ministers which after due deliberation recommended for uniformity of tenure by providing for three different ages of superannuation. On the issue of bringing judicial officers from subordinate judiciary on deputation, she pointed out that more than 4200 vacancies are existing in subordinate courts across the country which has direct impact on pendency of cases. On the issue of common nodal Ministry for looking after issues relating to Tribunals, the Inter-Ministerial Group set up in the Department of Justice felt that it would not be feasible for one Department to handle all Tribunals in view of the fact that certain domain specific experts need to be appointed in the Tribunal on which the concerned administrative Ministry is competent to decide. On the issue of standardization of oath and affirmation for the Members of Tribunals, the suggestions of members will be examined and result of the same examination will be furnished to the Committee.

*(The witnesses then withdrew)*

7. The verbatim record of the proceedings of the meeting was kept.
8. The Committee then adjourned at 5.49 P.M. to meet again at 3.00 P.M. on Tuesday, the 7<sup>th</sup> October, 2014.

X  
TENTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 4:00 P.M. on Tuesday, the 16<sup>th</sup> December, 2014 in Committee Room 'A' Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

**RAJYA SABHA**

2. Ms. Anu Aga
3. Shri Majeed Memon
4. Shrimati Rajani Patil
5. Shri Sukhendu Sekhar Roy
6. Shri K.T.S. Tulsi

**LOK SABHA**

7. Adv. Sharad Bansode
8. Shri P.P. Chaudhary
9. Choudhary Mehboob Ali Kaiser
10. Shri S. Bhagwant Mann
11. Shri Vincent H. Pala
12. Shri V. Panneerselvam
13. Dr. Anshul Verma

**SECRETARIAT**

Dr. D.B. Singh, *Additional Secretary*

Shri K.P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

Shrimati Niangkhanem Guite, *Assistant Director*

**Non-Official Witnesses**

1. Shri K. Ashokan, Presiding Officer, Debt Recovery Tribunal-II, New Delhi;
2. Shri Ashish Kalia, Presiding Officer, Debt Recovery Tribunal-III, New Delhi,
3. Shri Sudhir Kumar, Former Member, Central Administrative Tribunal



**4. PRS Legislative Research, New Delhi**

- (i) Shri M.R. Madhavan, President,
- (ii) Dr. Mandira Kala
- (iii) Ms. Prianka Rao

**5. Ministry of Law and Justice, Department of Justice**

Shri Y.M. Pande, Director

2. Chairman welcomed Members of the Committee and informed that non-official witnesses who in addition to their written memorandum had expressed their desire to tender oral evidence before the Committee on the Tribunals, Appellate Tribunals and other Authorities (Conditions of Service) Bill, 2014 have been invited for the purpose. The Chairman, thereafter, welcomed the non-official witnesses and officers of the Department of Justice, Ministry of Law and Justice.

3. The Presiding Officers of Debt Recovery Tribunals, New Delhi who appeared as non-official witnesses, in their deposition submitted that both the Debt Recovery Appellate Tribunal (DRAT) as well as Debt Recovery Tribunal (DRT) are single bench quasi-judicial bodies set up under the Recovery of Debts due to Banks and Financial Institutions Act, 1993. While DRAT has been included under Schedule 1 to the Bill under examination of the Committee, DRTs have been excluded. They added that the Presiding Officer of DRT is equivalent to the rank of District Judge and Judicial Members of other Tribunals *viz.* Central Administrative Tribunal (CAT), Company Law Board (CLB), National Industrial Tribunal (NIT) and Income Tax Appellate Tribunal (ITAT) are also of the same rank and have been included in the Schedule to the Bill and as such exclusion of DRTs was not justified. Even a Presiding Officer of DRT having three years experience has become Presiding Officer of DRAT. Currently, Presiding Officer of DRT, Mumbai has been discharging the additional responsibility of Presiding Officer of DRAT, Chennai. The DRT has appellate power and hear appeals from orders of the Recovery Officers under Section 30 of the Recovery of Debt due to Banks and Financial Institutions Act, 1993. All DRTs put together recovered revenue to the tune of ₹15,000 crore from defaulting parties in the last financial year. They cited National Industrial Tribunal which is also headed by a District Judge having three years experience and has also been included under the Schedule to the Bill. They, therefore, appealed to the Committee to include DRTs under Schedule to the Bill for the sake of Article 14 of Constitution.

4. Dr. Sudhir Kumar, former Member of Central Administrative Tribunal (CAT) in his deposition has averred that CAT which has been created under Article 323A of Constitution has been placed under same footing with other quasi-judicial bodies created under Article 323B of Constitution which is not proper. He has suggested that quasi-judicial entities need to be bifurcated to differentiate Constitutional Tribunals from other regulatory bodies. He, therefore, suggested that change in service conditions of 26 quasi-judicial bodies needs to be reflected in their Parent Act to give immediate effect.

5. Shri H.R. Madhavan of PRS Legislative Research, New Delhi in his deposition submitted that the provision of re-appointment of Chairman and Members of quasi-judicial bodies listed in the Bill might be challenged in Court of Law in view of decision of Supreme Court in the case of Madras Bar Association *vs.* Union of India (2014) wherein Section 8 of

the National Tax Tribunal Act, 2005 which has similar provisions has been declared unconstitutional.

6. While referring to leave sanctioning provision in the Bill (Clause-20), he averred that the President of India is currently the leave sanctioning authority for Chairman of Telecom Disputes Settlement Appellate Authority (TDSAT), National Green Tribunal (NGT) and Appellate Authority. The Minister concerned has been proposed as leave sanctioning authority of all quasi-judicial bodies in the Bill including aforesaid two bodies for the sake of uniformity which may impinge upon their independent functioning since the Departments under that authority are invariably one of the parties to the dispute.

6.1 He pointed out that having three sets of superannuation age for chairman and Members of all quasi-judicial bodies to be covered under the Bill is against the objective of the Bill. He, therefore, suggested that previous service should not be factored into while deciding the age of superannuation. The nexus between previous post and age of superannuation of Chairman and Members denotes unequal treatment amongst different classes of individuals and is apparently violative of Article 14 of the Constitution. He cited uniform retirement age for Chairman and Members as 70 & 65, respectively, as suggested by Law Commission in their Two Hundred Thirty Second Report (2009).

6.2 He added that differential grounds of removal exists in their respective Acts/Rules for tribunals. This needs to be covered under this Bill so as to provide uniform conditions for removal of the Chairman/Members of the Tribunals. The Bill also prohibits Chairman and Members of tribunals not to practise before the same body but is silent whether they could take up post-tenure employment with the litigant institutions or enterprises. He mentioned that such type of moratorium already is in existence for Members of National Green Tribunal and Competition Appellate Tribunal, which may be considered appropriate for inclusion in this Bill.

6.3 He suggested that the service conditions of Vice-Chairman/Vice-President might be provided in the Bill as Company Law Board, Armed Forces Tribunal and Income Tax Appellate Tribunal have such posts to assist the Presiding Officer.

6.4 Members observed that differential superannuation ages depending on the previous post is defective and liable to be struck down as arbitrary and discriminatory under Article 14 of the Constitution. They felt that retirement age and grounds of removal for Chairman and Members should be uniform across the Tribunals listed under the Bill.

*(The witnesses then withdrew)*

7. Verbatim record of meeting of the Committee was kept.

8. The meeting adjourned at 5.22 P.M. to meet again at 3.00 P.M. on 18<sup>th</sup> December, 2014.

XI  
ELEVENTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 10:30 A.M. on Friday, the 18<sup>th</sup> December, 2014 in Room No. '63', First Floor, Parliament House, New Delhi.

**MEMBERS PRESENT**

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

**RAJYA SABHA**

2. Ms. Anu Aga
3. Shri Majeed Memon
4. Shrimati Rajani Patil
5. Shri Sukhendu Sekhar Roy
6. Shri K.T.S. Tulsi
7. Shri Bhupender Yadav

**LOK SABHA**

8. Shri Subrata Bakshi
9. Shri P.P. Chaudhary
10. Choudhary Mehboob Ali Kaiser
11. Shri Santosh Kumar
12. Shri B.V. Naik
13. Shri Vincent H. Pala
14. Shri Bharat Singh
15. Shri Varaprasad Rao Velagapalli

**SECRETARIAT**

Shri K.P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

Shrimati Niangkhanem Guite, *Assistant Director*

2. The Chairman welcomed the Members of Committee. The Chairman, thereafter, referred to the letter dated 16th December, 2014 received from Shri M. Venkaiah Naidu, Minister of Urban Development, Housing and Urban Poverty Alleviation and Parliamentary Affairs forwarding therewith a letter of Shri D.V. Sadananda Gowda, Minister of Law and

Justice wherein he had referred to the observations of Supreme Court in Writ Petition (Civil) No. 120/2012 (Rajeev Garg Vs. UOI) on 7<sup>th</sup> November, 2014. The observations of Supreme Court are reproduced as under:-

*“Learned Solicitor General submits that the matter is still pending before the Parliamentary Standing Committee. Only after submission of the Report by the Committee, the matter will be placed before the Parliament. On his request, the case is adjourned for four weeks.*

*We hope and trust that in the meantime, the Respondent Union of India will request the concerned Parliamentary Affairs Minister to expedite the matter before the Parliamentary Standing Committee so that the matter may be placed before the Parliament on an early date...”*

3. Taking note of the observations of the Hon’ble Supreme Court, the Minister of Urban Development, Housing and Urban Poverty Alleviation and Parliamentary Affairs requested the Chairman of the Committee to expedite the submission of the report on the Tribunals, Appellate Tribunals and Authorities (Conditions of Service) Bill, 2014 as desired by the Supreme Court of India.

4. Members felt that the Committee is yet to interact with stakeholders on the Bill. The Committee also noted that Hon’ble Chairman has granted an extension upto 30<sup>th</sup> January, 2015 for presentation of the report to the Committee.

5. It was decided that the next meeting of the Committee will be held at 3.00 P.M. on 30<sup>th</sup> December, 2014 to hear the views of the following four Tribunals (i) Income Tax Appellate Tribunal; (ii) National Green Tribunal; (iii) National Disputes Redressal Commission; and (iv) Customs, Excise and Service Tax, Appellate Tribunal. The Committee also decided to hear the Secretary, Department of Legal Affairs, Ministry of Law and Justice on a later date.

6. \* \* \*

7. \* \* \*

8. \* \* \*

9. The meeting adjourned at 10.45 A.M.

II  
RECORD NOTE OF DISCUSSION

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 3:00 P.M. on Tuesday, the 30<sup>th</sup> December, 2014 in Committee Room G-074, Parliament Library Building, New Delhi.

**MEMBERS PRESENT**

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

**RAJYA SABHA**

2. Shri Ramchandra Prasad Singh
3. Shri Bhupender Yadav

**LOK SABHA**

4. Shri P.P. Chaudhary
5. Shri B.V. Naik
6. Dr. A. Sampath
7. Shri Bharat Singh
8. Shri Varaprasad Rao Velagapalli

**SECRETARIAT**

Shri K. P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

Shrimati Niangkhanem Guite, *Assistant Director*

**OFFICIAL WITNESSES**

**1. Customs, Excise & Service Tax Appellate Tribunal (CESTAT)**

- (i) Justice Shri G. Raghuram, President;
- (ii) Shri R.K. Singh, Member (Technical); and
- (iii) Shri A. Mohan Kumar, Registrar

**2. National Consumer Disputes Redressal Commission**

- (i) Justice Shri Vinay Kumar Jain, Member; and
- (ii) Shri Anil Srivastava, Registrar

**3. Department of Consumer Affairs (M/o Consumer Affairs, Food & Public Distribution)**

Shri G.C. Rout, Deputy Secretary

**4. Income Tax Appellate Tribunal**

- (i) Shrimati Diva Singh, Member (Judicial);
- (ii) Shri N.K. Saini, Member (Accountant);
- (iii) Shri J. Sudhakar Reddy, Member (Accountant); and
- (iv) Shri Prabha Shanker Singh, Assistant Registrar.

**5. Department of Legal Affairs (Ministry of Law and Justice)**

Shri Dinesh Bhardwaj, Joint Secretary & LA

**6. National Green Tribunal**

Shri Sanjay Kumar, Registrar-General

**7. Ministry of Environment, Forests and Climate Change**

Shri Bishwanath Sinha, Joint Secretary, MEF & CC

**8. Department of Justice (Ministry of Law and Justice)**

Shri Atul Kaushik, Joint Secretary

2. \* \* \*

The Chairman welcomed all the witnesses and requested them to dwell on issues in brief and also offer their views, if any, on the feasibility of a comprehensive law method of induction and removal which would create uniform qualifications, perquisites, service conditions, etc. for all tribunals.

3. The President of The Customs, Excise, and Service Tax Appellate Tribunal (CESTAT), informed the Committee about asymmetry of available infrastructure for the tribunals and suggested for common model of infrastructure which would specify size of the court room, chamber for Chairperson and Members, supporting staff requirements budgetary support, some amount of financial autonomy, etc. He pointed out that difficulty in finding Judicial Members to handle specialized Tribunals for which he suggested a foundation training program to acquaint them with critical domain expertise. He was of the view that pension paid for past service rendered should not be subtracted from the pay.

4. He pointed out that no guidelines or norm for re-appointment have been laid down in the Bill; Re-appointment as such is contrary to arbitration principles as the sponsoring Ministry is invariably a party to the litigation. He was of the view that differential retirement age is against the attempt of Government for standardizing service conditions of Chairperson and Members of Tribunal/Commission. He appealed to the Committee that provisions of Clause 3

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\*\*\* Relate to some other matter.

should be extended to incumbent Chairperson and Member in larger interest. He also shared information relating to existing and forthcoming vacancies, additional Benches created, etc. of CESTAT. He added that 85% of orders passed by Commissioners, Appellate Commissioners are not sustainable in the Tribunal resulting in loss of revenue to Government. Revenue to the tune of Rupees Two Hundred Thousand Crores have been locked due to pendency of more than one lakh cases in that body.

5. The Judicial Member of National Consumer Disputes Redressal Commission submitted that the Chairman of the Commission is entitled to salary, allowances and perquisites of a sitting judge of Supreme Court whereas Members of that Commission have the option of choosing consolidated honourarium or last pay drawn. He appealed to the Committee that salary, allowances and perquisites of a sitting judge of High Court or Secretary to Government of India may be provided to judicial and expert Members to stop heart-burning amongst the Members in that Commission. He cited examples of National Green Tribunal, Telecom Disputes Settlement and Appellate Authority, Armed Forces Tribunal and Competition Appellate Tribunal where Members are entitled to salary, allowances of a sitting High Court Judge. He was of the view that allowances proposed under the Second and Third Schedules of the Bill would adversely affect retired judges of Supreme Court and High Courts who are now incumbent Chairperson and Members of Tribunal in view of Clause 9 of the Bill and suggested amendment to the said Clause. Even though the Commission has Pan India presence infrastructural facilities, administrative staff support are inadequate at district level which need to be addressed. He also suggested that autonomy in the matter of framing rules for appointment of supporting staff of the Commission and budgetary utilization should be given to them.

6. The Judicial Members of the Income Tax Appellate Tribunal (ITAT) in her deposition touched upon the brief history of the tribunal, its composition and functions. In order to ensure the autonomy of the tribunals, she felt that all the tribunals should be placed under the Ministry of Law and Justice. She also submitted that the retirement age for Members and the Chairman should be the same. She also impressed upon the delay in providing housing facilities for members, especially in smaller cities, which hampers their functioning.

7. The Registrar-General of National Green Tribunal (NGT) requested the Committee to grant him more time for submission of the views of the tribunal on the Bill. The Chairman graciously granted two week's time to the National Green Tribunal (NGT).

8. A Member of the Committee suggested improving the facilities available to the Members of the Bar of the Tribunal, so that they could ably assist these Tribunals. He also expressed the need for improving their conditions. The Chairman requested the Department of Justice to prepare a comparative note of the best practices and models of Tribunals in other countries and furnish the same for the consideration of the Committee.

*(The witnesses then withdrew)*

9. Verbatim record of meeting of the Committee was kept.

10. The meeting adjourned at 4.43 P.M. to meet again at 3.00 P.M. on 8<sup>th</sup> January, 2015.

XIII  
THIRTEENTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 11.00 A.M. on Tuesday, the 22nd January, 2015 in Committee Room G-074, Parliament Library Building, New Delhi.

**MEMBERS PRESENT**

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

**RAJYA SABHA**

2. Shri Ramchandra Prasad Singh
3. Shrimati Rajani Patil
4. Shri Sukhendu Sekhar Roy
5. Shri K. T. S. Tulsi
6. Shri Bhupender Yadav

**LOK SABHA**

7. Adv. Sharad Bansode
8. Shri Abu Hasem Khan Chowdhury
9. Choudhary Mehboob Ali Kaiser
10. Shri S. Bhagwant Mann
11. Shri Varaprasad Rao Velagapalli
12. Shri B.V. Naik
13. Shri Vincent H. Pala
14. Shri Bharat Singh
15. Shri Tariq Anwar
16. Adv. Joice George

**SECRETARIAT**

Dr. D.B. Singh, *Additional Secretary*

Shri K. P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

Shrimati Niangkhannem Guite, *Assistant Director*



## **OFFICIAL WITNESSES**

### **1. Armed Forces Tribunal**

- (i) Hon. Shri Justice Sunil Hali, Member (J);
- (ii) Hon. Shri R.C. Mishra, Member (J);
- (iii) Hon. Air Marshal N. Burma, Member (A); and
- (iv) Shri N. Rama Murthy, Principal Registrar.

### **2. Appellate Tribunal for Electricity**

- (i) Shri Rakesh Nath, Member (Technical);
- (ii) Shri N.M. Borah, Member (Technical); and
- (iii) Shri Harvir Singh, Registrar.

### **3. Ministry of Defence**

Shrimati Surina Rajan, Joint Secretary

### **4. Ministry of Power**

Shri A.K. Singh, Joint Secretary

### **5. Ministry of Corporate Affairs**

Shri Manoj Kumar, Joint Secretary

### **6. Ministry of Labour and Employment**

- (i) Shri Dheeraj Kumar, Joint Secretary; and
- (ii) Shri Chanan Ram, Director.

### **7. Department of Justice (Ministry of Law and Justice)**

Shri Atul Kaushik, Joint Secretary

2. The Chairman welcomed the Members of the Committee and informed them of the agenda of the meeting for the day. He also welcomed the witnesses and requested them to dwell particularly on two issues *viz.*, appropriateness of bringing Members of bodies which differ with regard to status, background and nature of functions to an even level with respect to service conditions, term of appointments etc. and, whether a separate Commission needs to be set up for quasi-judicial bodies. He also asked them to express their views on different retirement age for the Chairman and Judicial and Technical Members as proposed in the Bill.

3. Hon'ble Justice Shri Sunil Hali, Judicial Member of Armed Forces Tribunal pointed out infirmities in Clauses 3 and 9 of the Tribunals, Appellate Tribunals & Authorities (Conditions of Service) Bill, 2014. He submitted that Judicial Members of the Armed Forces Tribunal would have to retire at the age of 67 years while Technical Members who come from Air Force/Army/Navy would have to retire at the age of 65 which appears to be discriminatory.

Clause 3 has overriding effect upon the existing Acts, regulating service conditions of Chairperson and Members of the Tribunal. The proviso to Clause 3 provides that proposed service conditions including provisions relating to retirement age would not apply to incumbent Chairperson and Members of the Tribunals whereas Clause 9 provides that proposed allowances specified under Second and Third Schedule of the Bill would be applicable to incumbent Chairperson and Members. This means that a retired judge of Supreme Court and High Courts who has been working as a Chairperson in any Tribunal would receive reduced allowances, particularly, housing and sumptuary allowances. He was of the opinion that reduction in allowances of Members of Tribunal would amount to lowering down their status. He, therefore, appealed to modify suitably provisos to Clause 3 and Clause 9 for the purpose. He also mentioned that an attempt has been made by the Government to treat unequals at par under the garb of providing uniform service conditions. He submitted that Armed Forces Tribunal is a unique Tribunal which decides civil as well as criminal cases and can even award death punishment. Appeal against the order of the Armed Forces Tribunals lies to the Supreme Court with the leave of the Armed Forces Tribunal or the Supreme Court in view of the Articles 227(4) and 136 (2) of the Constitution. The Members of Tribunals are of the rank of High Court Judge while Members of certain Tribunals under First Schedule of the Bill are of the rank of District Judge.

4. The Members of Appellate Tribunal for Electricity, present in the meeting were in favour of uniform tenure of five years and a comprehensive legislation for regulating all aspects of service conditions, but opposed to provision of re-appointment, reduction in allowances of incumbent Chairperson and Members.

5. The Joint Secretary of Ministry of Labour and Employment submitted that out of 22 Industrial Tribunal-cum-Labour Courts, only two at Mumbai and Kolkata, have been designated as National Industrial Tribunal with the same retirement age of 65 years. He was of the view that the new allowance proposed under the Second and Third Schedules of the Bill would be beneficial to incumbent Presiding Officers and Members.

6. Some Members felt that allowances are not part of Service Conditions, thus Clause 9 could not be unconstitutional. The pendency of cases speaks of inefficiency of the Tribunal and younger people with reasonable experience may be appointed to reduce pendency.

*(The witnesses then withdrew)*

7. Verbatim record of meeting of the Committee was kept.

8. The meeting adjourned at 12.34 P.M. to meet again at 3.00 P.M. on 17<sup>th</sup> February, 2015.

XIV  
FOURTEENTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 3:00 p.m. on Tuesday, the 17<sup>th</sup> February, 2015 in Committee Room G-074, Parliament Library Building, New Delhi.

**MEMBERS PRESENT**

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

**RAJYA SABHA**

2. Shri Parimal Nathwani
3. Shri K. T. S. Tulsi
4. Shri Bhupender Yadav

**LOK SABHA**

5. Shri P.P. Chaudhary
6. Shri Abu Hasem Khan Chowdhury
7. Choudhary Mehboob Ali Kaiser
8. Shri B. V. Naik
9. Dr. A. Sampath
10. Shri Udhayakumar M.
11. Shri Varaprasad Rao Velagapalli
12. Dr. Anshul Verma
13. Shri Tariq Anwar
14. Adv. Joice George

**SECRETARIAT**

Dr. D.R Singh, *Additional Secretary*

Shri K. P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

Shrimati Niangkhanem Guite, *Assistant Director*

**OFFICIAL WITNESSES**

(1). **Representatives of the Department of Legal Affairs, Ministry of Law and Justice**

- (i) Shri P.K. Malhotra, Secretary; and
- (ii) Shri Dinesh Bhardwaj, Joint Secretary & LA.

- (2). **Law Commission of India**
  - (i) Mr. Justice A.P. Shah, Chairman.
- (3). **Representative of the Legislative Department, Ministry of Law and Justice**
  - (i) Dr. Reeta Vasishta, Joint Secretary and Legislative Counsel; and
  - (ii) Shri Ishwar Chander Sharma, Deputy Legislative Counsel.
- (4). **Non-Official Witness**  
Shri Arvind P. Datar, Sr. Advocate, Supreme Court of India.
- (5). **Department of Justice, Ministry of Law and Justice**  
Shri Atul Kaushik, Joint Secretary.

2. The Chairman welcomed the Members of the Committee and informed them of the agenda of the meeting for the day. He then welcomed Justice A.P. Shah, Chairman, Law Commission, Shri P.K. Malhotra, Secretary, Department of Legal Affairs, Shri Arvind P. Datar, Senior Advocate, Supreme Court of India and other officers of the Ministry of Law and Justice. Before inviting the witnesses to take the floor, the Chairman apprised the witnesses of the progress the Committee has made on the Bill till date.

3. The Chairman pointed out that about one-third of Tribunals enumerated in the Bill are headed by a sitting or retired judge of Supreme Court. Some of the Tribunals are single member while others are multi-member quasi-judicial body having Members, both from legal and technical sides. While the status of members of some of the Tribunals is of the rank of a judge of High Court, others are of the rank of a District Judge. He further added that while some of the Tribunals are first appellate bodies, some others are second appellate bodies and rests are authority of first instance or regulatory bodies. He pointed out that the Press Council of India has already desired that service conditions of Chairman and Members of PCI should be excluded from the Bill.

4. While an attempt has been made to bring uniformity in tenure, age of superannuation and various allowances stipulated under Schedules 2 and 3 of the Bill, the Chairman pointed out that salary and perquisites of Chairperson and Members of Tribunals are presently regulated by the Statutes under which they have been set up.

5. He also highlighted the two tenures of five years each within three sets of superannuation age - 70, 68 and 65 as proposed in the Bill are said to be based upon age of superannuation of judge of Supreme Court, Judge of High Court and Secretary to Government of India which is currently 65, 62 and 60, respectively. He added that some of the Tribunals like ITAT, CESAT, etc. enumerated in Schedule-I to the Bill have uniform retirement age of 62 for the Chairperson and Members. He also pointed out of the omission of Debt Recovery Tribunal from the Bill while inclusion of National Industrial Tribunal, headed by a District Judge, has been made.

6. Citing the L. Chandrakumar's case, where the Supreme Court held that the administrative control of tribunals should be under the Ministry of Law and Justice, he

informed the witnesses that many Tribunals have favoured the observation of Supreme Court of India in the interest of independent functioning of those bodies.

7. Hon'ble Justice A.P Shah, Chairman, Law Commission of India opined that the Bill is unsatisfactory on various accounts. Firstly, the Bill appears to have been introduced to address only concerns of the Supreme Court in Rajiv Garg's case, without undertaking a wide ranging consultative effort to appreciate the problem with the tribunal system in India and how it can be reformed. Secondly, the Bill addresses mundane issues and ignores pressing problems such as: (a) The issues of appointments-the appointing body, requisite qualifications, and the status of technical members-prescribed for the Chairperson and Members all Tribunals; (b) The methods of incentivizing young, competent lawyers/judges to join Tribunals; and (c) The requirement of a cooling off period, if any, between the retirement of judges/civil servants and their appointment to the Tribunals.

8. He apprised that the definition of a "tribunal" or "authority" in the Bill leads to over-inclusion of bodies such as the Coastal Aquaculture Authority and the Press Council of India, which do not perform quasi-judicial functions. He added that the proposed law should be confined to tribunals, performing judicial/quasi-judicial functions only. He added that on the other hand, there is under-inclusion of Tribunals in the Bill such as: (a) Appellate Authority for Industrial and Financial Reconstruction;(b) Appellate Tribunal for Forfeited Property; (c) Appellate Tribunal under Prevention of Money Laundering; (d) Central Information Commission; (e) Employees' Provident Fund Appellate Tribunal; (f) Inter-State Water Dispute Tribunals etc. which are being excluded without any apparent reason.

9. The witness opined that the Bill prescribes different retirement ages based on the source of appointment, whether Supreme Court or High Court judge, which is completely untenable; the reappointment provision in the Bill is constitutionally suspect given the Supreme Court's 2014 decision in Madras Bar Association Vs. Union of India. He added that the Bill is completely silent on ways of ensuring that members (a) remain independent; and (b) do not become post-retirement havens. He felt that the whole objective of setting up tribunals to reduce the burden on the judiciary has failed due to mounting up of pendency.

10. Shri Arvind P. Datar opined that Section 3 of the Bill was an overriding provision over all other enactments. With regard to Section 5 relating to Government servants joining the Tribunals, he suggested a lien period may be prescribed for the Government servants joining Tribunals. He suggested deletion of the provision for oath of office in Section 11 as this is not a Constitutional post. He is further suggested that there should not be any distinction between tribunals where the Chairperson is the High Court Judge and otherwise. He added that the Schedule of the Bill should not be restricted to only 20-25 tribunals. He also opined that Tribunals Service may be created in the country.

11. Shri P.K. Malhotra, Secretary, Department of Legal Affairs apprised the Committee that the main objective of the Bill was to establish uniform conditions of service for the Chairperson and Members of certain Tribunals, Appellate Tribunals and other authorities enumerated in the First Schedule to the Bill. Other Tribunals may be included within the ambit of the Act by amending the Schedule by the Central Government if they have a Supreme Court or High Court Judge as the Chairperson or Member. These conditions of service include term of office, eligibility for re-appointment, age of retirement, allowances and leave entitlement for

Chairperson and Members of the Tribunal covered by the Bill. However, he added that the Bill does not deal with salary payable to the Chairperson and Members of the Tribunal and the provisions of the Bill will be applicable to those who would be appointed after coming into force of the proposed Act.

12. He apprised that Tribunals are created by or under a law made under Article 323A with regard to service matters and tribunals for other matters may be created as enumerated in Article 323B of the Constitution.

13. On clause 4 of the Bill, he informed that the Chairman and Members are eligible for reappointment however, the process of selection of Chairman and Members as provided under the relevant Act and Rules and criteria for selection would have to be followed even in case of reappointment. He added that Clause 8 prohibits the Chairman and Members from appearing before the tribunal to which they were serving. Further, according to Clause 7, the Chairman or Member, while holding such office, shall not act as an arbitrator in any matter. Such a provision is expected to (i) give autonomy to the functioning of these Members of the tribunal; (ii) their working is not interfered, and, (iii) they are not lured that after their retirement they can get some other employment also.

14. On the different age of retirement in the same Tribunal, he opined that it was decided by the Government as a matter of policy that it should be with reference to source of recruitment and with a definite tenure of five years. He added that different ages of superannuation have also been prescribed by different Ministries because each Act is administered by a different Ministry.

15. Some Members felt that allowances are not part of Service Conditions, thus Clause 9 would not be unconstitutional and that the pendency of cases speaks of inefficiency of the Tribunal and younger people with reasonable experience may be appointed to reduce pendency.

*(The witnesses then withdrew)*

16. Verbatim record of meeting of the Committee was kept.

17. The meeting adjourned at 5.34 P.M. to meet again at 3.00 P.M. on 25<sup>th</sup> February, 2015

XV  
FIFTEENTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 3.00 P.M. on Wednesday, the 25<sup>th</sup> February, 2015 in Room No. '63', First Floor, Parliament House, New Delhi.

**MEMBERS PRESENT**

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

**RAJYA SABHA**

2. Ms. Anu Aga
3. Shri Parimal Nathwani
4. Shrimati Rajani Patil
5. Shri K.T.S. Tulsi
6. Shri Sukhendu Sekhar Roy

**LOK SABHA**

7. Adv. Sharad Bansode
8. Shri P. P. Chaudhary
9. Shri B. V. Naik
10. Shri Vincent H. Pala
11. Shri Bharat Singh
12. Shri Udhayakumar M.
13. Dr. A. Sampath
14. Dr. Anshul Verma
15. Shri Varaprasad Rao Velagapalli
16. Adv. Joice George

**SECRETARIAT**

Dr. D. B. Singh, *Additional Secretary*

Shri K.P. Singh, *Director*

Shri Ashok K. Sahoo, *Joint Director*

Shrimati Niangkhanem Guite, *Assistant Director*

2. The Chairman welcomed the Members to the meeting. The Committee then took the consideration and adoption of the draft report on The Tribunals, Appellate Tribunals and Other Authorities (Conditions of service) Bill, 2014. The Chairman highlighted the issues dealt in the draft Report. He also informed the Members about the suggestions received from Shri Vincent H. Pala, Member of the Committee. Members deliberated on the issues raised, and thereafter, with certain changes the report was adopted by the Committee.

3. The Committee decided to present the Report to both Houses of Parliament on the 26<sup>th</sup> February, 2015. It also authorized its Chairman, and in his absence, Shri K.T.S. Tulsi to present the Report to Rajya Sabha and Shri P.P. Chaudhary and in his absence, Shri Vincent H. Pala to lay the same in Lok Sabha.

4. The meeting adjourned at 3.40 P.M. to meet again on 3<sup>rd</sup> March 2015 at 3.00 P.M.





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# **ANNEXURES**

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AS INTRODUCED IN THE RAJYA SABHA

**Bill No. VII of 2014**

**THE TRIBUNALS, APPELLATE TRIBUNALS AND OTHER  
AUTHORITIES (CONDITIONS OF SERVICE) BILL, 2014**

A

BILL

*to provide for uniform conditions of service of the Chairman and Members, by whatever name called, of certain Tribunals, Appellate Tribunals and other authorities and for matters connected therewith or incidental thereto.*

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

CHAPTER-I

PRELIMINARY

**1.** (1) This Act may be called the Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Act, 2014.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) “Appellate Tribunal” means appellate tribunal mentioned in column (2) of the First Schedule established or

constituted under the provisions of any of the corresponding specified Acts mentioned in column (3) of the said Schedule;

(b) “Authority” means an authority mentioned in column (2) of the First Schedule established or constituted under the provisions of any of the corresponding specified Acts mentioned in column (3) of the said Schedule;

(c) “Board” means a board mentioned in column (2) of the First Schedule established or constituted under the provisions of any of the corresponding specified Acts mentioned in column (3) of the said Schedule;

(d) “Chairman” means a Chairman of a Tribunal, Appellate Tribunal, Board, Commission or Authority, by whatever name called, appointed under the provisions of the specified Acts;

(e) “Commission” means a Commission mentioned in Column (2) of the First Scheduled, established or constituted under the provisions of any of the Corresponding specified Acts mentioned in column (3) of the said Schedule;

(f) “Member” means a Member, other than *ex officio* Member, of a Tribunal, Appellate Tribunal, Board, Commission or Authority, appointed under the provisions of the specified Acts;

(g) “Schedule” means any of the Schedules annexed to this Act;

(h) “specified Acts” means Acts specified in column (3) of the First Schedule;

(i) “Tribunal” means a tribunal mentioned in column (2) of the First Schedule established or constituted under the provisions of any of the corresponding specified Acts mentioned in column (3) of the said Schedule.

## Chapter II

### CONDITIONS OF SERVICE

Application of Act..

**3.** Notwithstanding anything to the contrary contained in the provisions of the specified Acts, the provisions of this Act shall apply to the Chairman and Members appointed under the specified Acts:

Provided that the provisions of this Act shall not apply to the Chairman and other Members, as the case may be, holding such office immediately before the commencement of the said Act.

**4.** The Chairman and every other Member shall hold office as such for a term of five years from the date on which

Term of office.

he enters upon his office and shall be eligible for reappointment for another term:

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

(a) in the case of Chairman or Member who has been a Judge of the Supreme Court, the age of seventy years;

(b) in the case of the Chairman or Member who has been a Chief Justice or Judge of a High Court, the age of sixty-seven years;

(c) in the case of any other Chairman or Member, the age of sixty-five years.

5. A person who, immediately before the date of assuming office as the Chairman or, as the case may be, a Member, was in service of the Government, shall be deemed to have retired from service on the date on which he enters upon his office as such Chairman or Member.

Chairman and Members deemed to retire from service.

6. If a person who, immediately before the date of assuming office as the Chairman or other Member, as the case may be, was in receipt of, or being eligible so to do, has opted to draw, a pension, other than a disability or wound pension, in respect of any previous service under the Government, his salary in respect of service as the Chairman or other Member, as the case may be, shall be reduced-

Suspension of pension.

(a) by the amount of that pension; and

(b) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

7. No person while holding office as the Chairman or Member shall act as an arbitrator in any matter:

Prohibition of acting as arbitrator.

Provided that the Central Government may, on a request made in this behalf and after examining the request on a case to case basis, permit a Chairman or Member to complete his uncompleted arbitration work at the time of his appointment.

Prohibition of practice.

8. On ceasing to hold office, the Chairman or a Member, as the case may be, shall not appear, act or plead before the Tribunal, Appellate Tribunal, Board, Commission or Authority of which he has been such Chairman or Member.

Allowances of Chairman and Members.

9. Notwithstanding anything contained in section 3, the Chairman and Members shall be entitled to the

**allowances specified in the Second Schedule and travelling allowance specified in the Third Schedule.**

Medical facilities.

**10.** The Chairman or Member who is not a sitting or retired Judge or a retired Central Government servant shall also be eligible to avail the benefit of Central Government Health Scheme for the duration of his tenure as Chairman or Member of such bodies.

Oath of office and secrecy.

**11.** The Chairman or Member shall, before entering upon his office, make and subscribe to an oath of office and secrecy in the form specified in the Fourth Schedule.

Declaration of financial and other interests.

**12.** The Chairman and Member shall, before entering upon his office, declare his assets and liabilities and financial and other interests.

Power to amend Schedules.

**13.** (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may by notification published in the Official Gazette, amend the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly:

Provided that only such Tribunal, Appellate Tribunal, Board, Commission or Authority, shall be included in the First Schedule which has a sitting or retired Supreme Court or High Court Judge as Chairman or Member.

(2) A copy of every notification issued under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is issued.

### CHAPTER III

#### LEAVE

Kinds of leave admissible.

**14.** (1) Subject to the provisions of this Act, leave granted to a Chairman or Member may be at his option either,-

(a) leave on full allowances (including commuted leave on half allowances on medical certificate); or

(b) leave on half allowances; or

(c) leave partly on full allowances and partly on half allowances.

(2) For the purposes of this Chapter, any period of leave on full allowance shall be reckoned as double that period of leave on half allowance.

**15.** (1) A leave account shall be kept showing therein the amount of leave due to the Chairman or Member in terms of leave on half allowance.

Leave account.

(2) In the leave account,—

(a) there shall be credited to such Chairman and Member-

(i) one-fourth of the time spent by him on actual service;

(ii) where by reason of his having been detained for the performance of duties not connected with the Tribunal, Appellate Tribunal, Board, Commission or Authority, he could not enjoy any vacation which he would otherwise have been entitled to enjoy had he not been so detained, a period equal to double the period by which the vacation enjoyed by him in any year falls short of one month as compensation for the vacation not enjoyed;

(b) there shall be debited to him all leave with allowances taken by him.

*Explanation.-*For the purposes of this section the expression “actual service” shall include-

(a) time spent by a Chairman or Member on duty;

(b) vacations, excluding any time during which the Chairman or Member is absent on leave.

**16.** A Chairman or Member shall be entitled in his entire service including the period of service rendered in a pensionable post under the Union or State or on re-employment, if any, to claim the cash equivalent of leave salary on full allowances on his retirement in respect of the period of earned leave at his credit to the extent of maximum period of three hundred days.

Leave encashment.

**17.** Leave on half allowances, not exceeding more than six months, may be granted in excess of the amount at his credit during the whole period of his service:

Leave not due.

Provided that no such leave shall be granted if he is not expected to return to duty at the end of such leave and earned leave so granted.

Extra-ordinary leave.

**18.** Extraordinary leave may be granted for a period not exceeding six months, during the whole period of his service in excess of any leave permissible under the provisions of this Chapter, but no salary or allowances shall be payable during, or in respect of, such leave.

Casual leave.

**19.** Casual leave not exceeding fourteen days may be granted in a calendar year.

Sanctioning authority for leave and foreign travel.

**20.** (1) Leave sanctioning authority for Members shall be Chairman and for Chairman, it shall be the Minister of the concerned Ministry, who will also be the sanctioning authority for Members, in case of absence of Chairman.



(2) Sanctioning authority for foreign travel shall be the Minister of the concerned Ministry.

FIRST SCHEDULE

*[See section 2 (a), (b), (c), (e), (g) and (i)]*

Sl. No.	Tribunal/Appellate Tribunal/ Authority/Board/Commission	Specified Acts
(1)	(2)	(3)
1.	Company Law Board	The Companies Act, 1956 (1 of 1956)
2.	Cyber Appellate Tribunal	The Information Technology Act, 2000 (21 of 2000)
3.	Central Administrative Tribunal	The Administrative Tribunals Act, 1985 (13 of 1985)
4.	State Administrative Tribunal	The Administrative Tribunals Act, 1985 (13 of 1985)
5.	Joint Administrative Tribunal	The Administrative Tribunals Act, 1985 (13 of 1985)
6.	Income-Tax Appellate Tribunal	The Income-Tax Act, 1961 (43 of 1961)
7.	Authority for Advance Rulings	The Income-Tax Act, 1961 (43 of 1961)
8.	Telecom Disputes Settlement and Appellate Authority	The Telecom Regulatory Authority of India Act, 1997 (24 of 1997)
9.	Coastal Aquaculture Authority	The Coastal Aquaculture Authority Act, 2005 (24 of 2005)
10.	Appellate Tribunal for Electricity	The Electricity Act, 2003 (36 of 2003)
11.	Appellate Tribunal for Foreign Exchange	The Foreign Exchange Management Act, 1999 (42 of 1999)
12.	Film Certification appellate Tribunal	The Cinematograph Act, 1952 (37 of 1952)
13.	National Green Tribunal	The National Green Tribunal Act, 2010 (19 of 2010)

14. Securities Appellate Tribunal	The Securities and Exchange Board of India Act, 1992 (15 of 1992)
15. Customs, Excise and Service Tax Appellate Tribunal	The Customs Act, 1962 (52 of 1962)
16. Authority for Advance Rulings (Central Excise, Customs and Service Tax)	The Customs Act, 1962 (52 of 1962)
17. Armed Forces Tribunal	The Armed Forces Tribunal Act, 2007 (55 of 2007)
18. Competition Appellate Tribunal	The Competition Act, 2002 (12 of 2003)
19. National Consumer Disputes Redressal Commission	The Consumer Protection Act, 1986 (68 of 1986)
20. Debts Recovery Appellate Tribunal	The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993)
21. Intellectual Property Appellate Board	The Trade Marks Act, 1999 (47 of 1999)
22. Railway Claims Tribunal	The Railway Claims Tribunal Act, 1987 (54 of 1987)
23. National Industrial Tribunal	The Industrial Disputes Act, 1947 (14 of 1947)
24. Press Council of India	The Press Council Act, 1978 (37 of 1978)
25. National Highways Tribunal	The Control of National Highways (Land and Traffic) Act, 2002 (13 of 2003)
26. Airports Economic Regulatory Authority Appellate Tribunal	The Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008)

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## SECOND SCHEDULE

*[See section 9]*

## ALLOWANCES OF CHAIRMAN AND MEMBERS OF TRIBUNALS, ETC.

Allowances	Chairman	Members
(1)	(2)	(3)
Free furnishing at official residence	Consolidated sum of ₹3,00,000	Consolidated sum of ₹2,00,000
Sumptuary allowance	₹5,000 per month	₹2,000 per month
Water and electricity	3,600 kilo litres per annum and 10,000 units per annum	3,600 kilo litres per annum and 10,000 units per annum
Conveyance facility	Staff car with up to 200 litres of fuel per month	Staff car with up to 200 litres of fuel per month
Leave Travel Concession	Twice a year	Twice a year
Telephone facility	₹2,800 per month (exclusive of taxes) with permission to reimburse up to thirty per cent additional	₹2,800 per month (exclusive of taxes) with permission to reimburse up to thirty per cent additional

## THIRD SCHEDULE

*[See section 9]*

## TRAVELLING ALLOWANCE OF CHAIRMAN AND MEMBERS OF TRIBUNALS, ETC.

Sl.No. Type	Admissibility
1. Air	Business/Club class
2. Rail	A reserved two-berth compartment of the highest class, and take his wife along with him without payment of the fare if such a compartment is provided; or actual fare paid, whichever is less.

- |    |                   |  |
|----|-------------------|--|
| 3. | Daily allowance   | Not exceeding ₹5,000 per day for hotel/guest house accommodation and food bill not exceeding ₹500 per day or actual expenses whichever is less.<br>Note.- The daily allowance shall be increased by 25 per cent as and when the Dearness Allowance reaches fifty per cent of the basic salary. |
| 4. | Ship              | One reserved first class cabin, if available or the fair actually paid for himself.  |
| 5. | Mileage allowance | Actual air conditioned taxi fare.  |
- 

#### FOURTH SCHEDULE

*[See section 11]*

#### FORM OF OATH OF OFFICE AND SECRECY

“I, \_\_\_\_\_, having been appointed as the Chairman/Member (strike out which is not applicable) do solemnly affirm and do swear in the name of God that I will faithfully and conscientiously discharge my duties as the Chairman/Member (strike out which is not applicable), of the Tribunal, Appellate Tribunal, Board, Commission or Authority (strike out which is not applicable) namely \_\_\_\_\_, to the best of my ability, knowledge and judgment without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws of the land.

*Dated:*

*(Signatures and name of the Chairman/Member)  
Tribunal, Appellate Tribunal, Board,  
Commission or Authority  
(strike out which is not applicable), namely*

\_\_\_\_\_”

## STATEMENT OF OBJECTS AND REASONS

The question of having uniform service conditions of the Chairpersons and Members of the various Tribunals at the national level has been engaging attention of the Government for quite some time. Recently, the Supreme Court, in the case of *Rajiv Garg vs. Union of India* (Civil Writ Petition No. 120/2012), has also passed an order that decision in this regard may be taken at the highest level.

2. The Government considered all issues relating to uniform service conditions particularly with regard to retirement age, tenure of appointment, re-appointment and provisions concerning residential and office accommodation for Tribunals, Appellate Tribunals and other Authorities performing quasi-judicial functions manned by the sitting or retired Judges of the Supreme Court or High Courts and also the ones manned by persons who are not the sitting or retired Judges of the Supreme Court and High Courts keeping in view all related aspects including the issues that have arisen in different cases before the Supreme Court and functions entrusted to such bodies.

3. The Bill seeks to achieve the above objects.

NEW DELHI

KAPIL SIBAL

*The 11th February, 2014.*

## FINANCIAL MEMORANDUM

Clause 9 of the Bill provides that the Chairman and Members shall be entitled to the allowances specified in the Second Schedule and travelling allowance specified in the Third Schedule. The total recurring annual expenditure towards the allowances of the Chairman and Members is estimated at rupees 3 crore. The administrative Ministries or Departments bear the expenditure in respect of the Tribunals, etc., under their control.

2. The Bill does not involve any other recurring or non-recurring expenditure.

RAJYA SABHA

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A

BILL

to provide for uniform conditions of service of the Chairman and Members, by whatever name called, of certain Tribunals, Appellate Tribunals and other authorities and for matters connected therewith or incidental thereto.

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*(Shri Kapil Sibal, Minister of Law and Justice)*

GMGIPMRND—4380RS(S3)—13-02-2014.

**Tenure and superannuation age of Chairperson, Vice-Chairperson and Members of quasi-judicial entities enumerated in Scheduled-I to the Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014**

Sl. No.	Name of Entities	Tenure	Re-appointment	Chairperson/ President/ Presiding Officer	Vice- Chairperson/ Vice-President	Member	
						Judicial	Non-Judicial
1	2	3	4	5	6	7	8
1.	Company Law Board	No Provision	No Provision	67 yrs.	65 yrs	62 yrs	62 yrs
2.	Cyber Appellate Tribunal	5 years	No Provision	65 yrs	Post does not exist	65 yrs	65 yrs
3.	Central Administrative Tribunal	5 years	No Provision for Chairperson One term for Member	68 yrs	Post is abolished in 2006	65 yrs	65 yrs
4.	State Administrative Tribunal						
5.	Joint Administrative Tribunal						
6.	Income- Tax Appellate Tribunal	No Provision	No Provision	65 yrs	62 yrs	62 yrs	62 yrs
7.	Authority for Advance Rulings	3 years	One term	70 yrs	Post does not exist	62 yrs	62 yrs
8.	Telecom Disputes Settlement and Appellate Authority	3 years	No Provision	70 yrs	Post does not exist	65 yrs	65 yrs
9.	Coastal Aquaculture Authority	3 years	Two consecutive terms	No Provision	Post does not exist	No Provision	No Provision
10.	Appellate Tribunal for Electricity	3 years	One term	70 yrs	-do-	65 yrs	65 yrs



1	2	3	4	5	6	7	8
11.	Appellate Tribunal for Foreign Exchange	5 years	No Provision	65 yrs	-do-	62 yrs	62 yrs
12.	Film Certification Appellate Tribunal	3 years	One term	No Provision	-do-	No Provision	No Provision
13.	National Green Tribunal	5 years	Not permitted	70 yrs	-do-	67 yrs	65 yrs
14.	Securities Appellate Tribunal	5 years	One term	68 yrs	-do-	62 yrs	62 yrs
15.	Customs, Excise and Service Tax Appellate Tribunal	3 years	No Provision	65 yrs	62 yrs	62 yrs	62 yrs
16.	Authority for Advance Rulings (Central Excise, Customs and Service Tax)	3 years	One term	70 yrs	Post does not exist	62 yrs	62 yrs
17.	Armed Forces Tribunal	4 years	One term	70/65 yrs	-do-	65 yrs	65 yrs
18.	Competition Appellate Tribunal	5 years	One term	68 yrs	-do-	65 yrs	65 yrs
19.	National Consumer Disputes Redressal Commission	5 years	One term	70 yrs	-do-	70 yrs	70 yrs
*20.	Debts Recovery Appellate Tribunal	5 years	No Provision	65 yrs	-do-	Post does not exist	Post does not exist
21.	Intellectual Property Appellate Board	5 years	No Provision	65 yrs	65 yrs	62 yrs	62 yrs
22.	Railway Claims Tribunal	5 years	No Provision	65 yrs	62 yrs	62 yrs	62 yrs

*23. National Industrial Tribunal	No Provision	No Provision	65 yrs	Post does not exist	Post does not exist	Post does not exist
24. Press Council of India	3 years	One term	No Provision	Post does not exist	No Provision	No Provision
*25. National Highways Tribunal			62 yrs	Post does not exist	Post does not exist	Post does not exist
26. Airports Economic Regulatory Authority Appellate Tribunal	3 years	No Provision	70 yrs	-do-	65 yrs	65yrs

\* *Single Member Bench*

**The Vacancies as on 31st December, 2014 in Certain Tribunals Under First Schedule  
in The Bill**

Sl.No.	Name of quasi-judicial entity	Sanctioned post	Vacant post
1.	Income Tax Appellate Tribunal	126	63
2.	Railway Claim Tribunal	42	21
3.	Customs Excise and Service Tax Appellate Tribunal	32	13
4.	Competition Appellate Tribunal	03	02
5.	Intellectual Property Appellate Board	05	02
6.	Company Law Board	09	04
7.	Debt Recovery Appellate Tribunal	01	01
8.	Telecom Disputes Settlement and Appellate Authority	03	01
9.	Appellate Tribunal for Foreign Exchange	03	01
10.	National Green Tribunal	21	05
11.	Armed Forces Tribunal	30	06
12.	National Consumer Disputes Redressal Commission	12	01
13.	Central Administrative Tribunal	65	18

**Comments of the Department of Justice on the views/suggestions contained in memoranda submitted by individual/organisation on the provision of the bill**

Memorandum No.	Suggestions/View	Comments of DoJ
1. (Submitted by Shri K. Ashokan, PO, DRT-II, Delhi)	The Debts Recovery Tribunal (DRT) should be included at Sl. No. 27 in the First Schedule of the Bill as its exclusion is arbitrary, discretionary and not justifiable. A person who is or has been or is qualified to be a District Judge is eligible for appointment as Presiding Officer of DRT. The same qualification has been prescribed in case of a Judicial Member of CLB, ITAT, CESAT and Railway Claims Tribunal and PO of National Industrial Tribunal which have been included in the First Schedule. The PO of DRT is selected by a Selection Committee headed by CJI or a Judge of Supreme Court as nominated by CJI. His term of office is 5 years or until the age of 62 years whichever is earlier. DRT is an adjudicating authority.	The list of Tribunals/Quasi-Judicial Bodies included in First Schedule is not exhaustive. A Tribunal may be added to the Schedule under Clause 13 of the Bill. Presently, only those Tribunals have been included in the First Schedule which has sitting or retired Supreme Court Judges or High Court Judges as Chairman or Member. CLB, ITAT, CESAT, RCT and National Industrial Tribunal are headed by retired Judges. However, in the case of DRT, a person eligible to be appointed as a District Judge is appointed as Presiding Officer of DRT.
2. (Submitted by Shri Ashish Kalia, PO, DRT-III, Delhi)	The Debts Recovery Tribunal (DRT) should be included at Sl. No. 27 in the First Schedule of the Bill as its exclusion is arbitrary, discretionary and not justifiable. A person who is or has been or is qualified to be a District Judge is eligible for appointment as Presiding Officer of DRT. The same qualification has been prescribed in case of a Judicial Member of CLB, ITAT, CESAT and Railway Claims Tribunal and PO of National Industrial Tribunal which have	The list of Tribunals/Quasi-Judicial Bodies included in First Schedule is not exhaustive. A Tribunal may be added to the Schedule under Clause 13 of the Bill. Presently, only those Tribunals have been included in the First Schedule which has sitting or retired Supreme Court Judges or High Court Judges as Chairman or Member. CLB, ITAT, CESAT, RCT and National Industrial Tribunal are headed by retired Judges. However, in the case of DRT, a

Memorandum No.	Suggestions/View	Comments of DoJ
	<p>been included in the First Schedule. The PO of DRT is selected by a Selection Committee headed by CJI or a Judge of Supreme Court as nominated by CJI. Although the procedure for appointment of PO, DRT and Chairperson of DRAT is the same, DRAT is included in Schedule 1 and DRT has been excluded. The term of office of PO, DRT is 5 years or until the age of 62 years whichever is earlier. DRT is an adjudicating authority.</p>	<p>person eligible to be appointed as a District Judge is appointed as Presiding Officer of DRT.</p>
<p>3. (Submitted by Shri Rabindra Kumar Das, Delhi)</p>	<p>The Maintenance Tribunals constituted in different States under the Maintenance and Welfare of Parents and Senior Citizens at 2007 and presided by Additional District Magistrate/SDM may be included in Schedule 1. The present service conditions of a Member of Maintenance Tribunal need modification and up-gradation. A Member of Tribunal in Delhi is being paid presently only a sitting allowance of ₹1,000/- per day without any other benefits.</p>	<p>The Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014 covers only those Tribunals and Authorities which is performing quasi-judicial functions and which has sitting or retired Supreme Court Judges or High Court Judges as Chairman or Member. The Maintenance Tribunal does not fulfill the above requirements.</p>
<p>4. (Submitted by Shri Arunesh Pathak, Advocate, Kolkata)</p>	<p>The Memorandum has been written in a very incoherent way. No specific suggestion/view has been made in respect of the Tribunals Bill. The grievance appears to relate to the Right to Services and Grievances Redress Bill, 2014 being piloted by Department of Administrative Reforms and Public Grievances.</p>	<p>Needs no comment.</p>

5. Shri B.S.V. Murthy, Member (Technical) , Customs, Excise & Service Tax Appellate Tribunal (CESTAT), Bangalore.

There should be a provision in the Bill for re-appointment of retiring Members in the same Tribunals for 6 months at one time in order to ensure that all vacancies remain filled up.

The concerned Ministry/Department administratively responsible for the Tribunal is expected to take advance action to fill-up the vacancies.

6. & 7. Mr. R. Periasami, I.R.S, Member (Technical) CESTAT, Chennai and Mr. P.S. Pruthi, CESTAT, Mumbai.

Existing Chairman/Members in the Tribunals be given option to opt for new retirement age prescribed in the Bill.

As per proviso to Article 125 (2) and proviso to Article 221 (2) of Constitution of India, neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his/her disadvantage after his appointment. Some of the pay and allowances admissible to Chairman/Members proposed in the Bill may be less than the pay and allowance available under the current laws. Similarly, some other terms and conditions may be more beneficial in the proposed Bill. In order to ensure that a Chairperson/Member appointed after the new Act comes into force carry the same terms and conditions, and keeping in view the fact that the Chairman/Member appointed under existing laws were aware of the terms and conditions on which they were being appointed before they accepted their appointment, it is proposed not to provide any option to existing Chairperson/ Members to opt for either the existing terms or the new terms.

Memorandum No.	Suggestions/View	Comments of DoJ
8. Prof. (Dr.) P.C. Mishra, Expert Member, National Green Tribunal (NGT), Eastern Zone Bench, Kolkata.	<p>(1). Existing Judicial Members in the Tribunals should continue to enjoy those existing facilities, which are more beneficial than the proposed facilities.</p> <p>(2). The Tribunals may be brought within the administrative jurisdiction of Ministry of Law &amp; Justice to ensure uniformity.</p> <p>(3). Leave sanctioning authority for Members in NGT should remain the Chairman and for Chairman, it should remain the President.</p> <p>(4). There should be no disparity in pay, allowances and perks available to Judicial Members/Expert Members of Tribunals.</p> <p>(5). The provision of leave encashment in respect of persons who are appointed after working in the Government needs to be revisited.</p>	<p>(1). As above</p> <p>(2). The issue whether all Tribunals established under the Central Acts can be brought under one nodal Ministry/Department was considered by the Inter Ministerial Group (IMG) headed by Secretary (Justice) in consultation with Ministries/Departments under which the tribunals administratively fall, and it was decided that it is neither practical nor feasible to do so. This recommendation of IMG has been accepted by the Cabinet.</p> <p>(3). Such a change cannot be made for one tribunal.</p> <p>(4). Once enacted, this Bill will provide uniform terms &amp; conditions to all Members of the Tribunals including NGT, except age of retirement, which will depend upon the source of the recruitment.</p> <p>(5). The limit of a maximum period of 300 days for encashment is for the entire service whether it has been rendered before or after joining the tribunal. A former Government servant who did not have full 300 days leave at the time of his/her superannuation, gets encashment for balance days of leave at the time of superannuation from the Tribunal, subject to a maximum ceiling of 300 days.</p>

9. Mr. Ranjan Chatterjee (Retd. IAS), Expert Member, National Green Tribunal (NGT).

(1) The proposed Bill will result in disparity for the Members, as the conditions of service of Expert Members are different from those of Judicial Members, in NGT.

(2) The disparity between the allowance and perks admissible to judicial members and expert members in NGT needs to be eliminated.

(3) The provision of leave encashment up to 300 days, in respect of persons who have been appointed after working in the Government, may be revisited.

4) All Tribunals be brought Under the administrative control of the Ministry.

(1) & (2) Once enacted, this Bill will provide uniform terms & conditions to all Members of the Tribunals including NGT, except age of retirement, which will depend upon the source of the recruitment.

(3) The limit of a maximum period of 300 days for encashment is for the entire service whether it has been rendered before or after joining the tribunal. A former Government servant who did not have full 300 leave at the time of his/her superannuation, gets encashment for balance days of leave at the time of superannuation from the Tribunal, subject to a maximum ceiling of 300 days.

(4) The issue whether all Tribunals established under the Central Acts can be brought under one nodal Ministry/Department was considered by the Inter-Ministerial Group (IMG) headed by Secretary (Justice) in consultation with Ministries/Departments under which the tribunals administratively fall and it was decided that it is neither practical nor feasible to do so. This recommendation of IMG has been accepted by the Cabinet.

10. Shri Surendra Kumar, Judicial Member, Appellate Tribunal for Electricity.

(1) Chairman and Members holding the office on the day of notification of the Act should be allowed to continue till the age of 67 years or

(1) As per proviso to Article 125 (2) and proviso to Article 221 (2) of Constitution of India, neither the allowances of a Judge nor his



Memorandum No.	Suggestions/View	Comments of DoJ
	<p>be allowed to complete the tenure of 5 years whichever may be earlier.</p> <p>(2) Sumptuary allowance for Chairman should be as applicable to a sitting Judge of Supreme Court and for Members, it should be as applicable to a sitting Judge of High Court.</p>	<p>rights in respect of leave of absence or pension shall be varied to his/her disadvantage after his appointment. Some of the pay and allowances admissible to Chairman/Members proposed in the Bill may be less than the pay and allowance available under the current laws. Similarly, some other terms and conditions may be more beneficial in the proposed Bill. In order to ensure that a Chairperson/Member appointed after the new Act comes into force carry the same terms and conditions, and keeping in view the fact that the Chairman/Member appointed under existing laws were aware of the terms and conditions on which they were being appointed before they accepted their appointment, it is proposed not to provide any option to existing Chairperson/Members to opt for either the existing terms or new terms.</p> <p>(2). The GoM considered the matter regarding sumptuary allowance available to a sitting Judge of the High Court to be made available to Chairperson/Member of the Tribunals and arrived at the proposed recommendation after due consideration in order to provide uniformity.</p>
<p>11,12, 13, 14 &amp; 15. Mr. Indra Prakash Lal, Member (Technical), CESTAT, Kolkata, Mr. Manmohan Singh, Member</p>	<p>The existing Chairman and the Members be given option to opt for new provisions relating to terms of office subject to specified age limit.</p>	<p>As per proviso to Article 125 (2) and proviso to Article 221 (2) of Constitution of India, neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be</p>

(Technical), CESTAT, New Delhi, Mr. R.K. Singh, Member (Technical), CESTAT, New Delhi, Mr. Rakesh kumar, Member (Technical), CESTAT, New Delhi and Mr. P.R. Chandrasekharan, Member (Technical), CESTAT, Mumbai.

16 Mr. Shankar Prasad, Member (Technical), CESTAT, Patna.

(1) The Act is silent on pension, family pension and gratuity to Chairman/Members.

(2) The Chairman/Members be allowed to opt for those Service Conditions the Bill which may be beneficial for them.

varied to his/her disadvantage after his appointment. Some of the pay and allowances admissible to Chairman/Members proposed in the Bill may be less than the pay and allowance available under the current laws. Similarly, some other terms and conditions may be more beneficial in the proposed Bill. In order to ensure that a Chairperson/Member appointed after the new Act comes into force carry the same terms and conditions, and keeping in view the fact that the Chairman/Member appointed under existing laws were aware of the terms and conditions on which they were being appointed before they accepted their appointment, it is proposed not to provide any option to existing Chairperson/Members to opt for either the existing terms or new terms.

(1) It is not proposed to make the service of Chairperson/Member of a Tribunal as pensionable. Clause 6 of the Bill provides for reduction of the salary of a Chairperson/Member to the extent of pension drawn from his/her previous service in the Government.

2) As per proviso to Article 125 (2) and proviso to Article 221 (2) of Constitution of India, neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his/her disadvantage after his

Memorandum No.	Suggestions/View	Comments of DoJ
		<p>appointment. Some of the pay and allowances admissible to Chairman/Members proposed in the Bill may be less than the pay and allowance available under the current laws. Similarly, some other terms and conditions may be more beneficial in the proposed Bill. In order to ensure that a Chairperson/ Member appointed after the new Act comes into force carry the same terms and conditions, and keeping in view the fact that the Chairman/Member appointed under existing laws were aware of the terms and conditions on which they were being appointed before they accepted their appointment, it is proposed not to provide any option to existing Chairperson/Members to opt for either the existing terms or new terms.</p>
<p>17. Mr. Ashok Jindal, Member (Judicial), CESTAT.</p>	<p>(1) Option may be given to existing Chairman/ Members of the Tribunal to switch over to new terms and conditions under the proposed Bill.</p> <p>(2) In order to invite young talent, the re-appointment clause needs to be deleted.</p>	<p>(1) As above.</p> <p>(2) The Government provided for one tenure of re-appointment keeping in view the needs of those Chairman/Members who are appointed at an early age. It will be seen that a Judge/ Government servant who joins as Chairman/ Members of a tribunal after his superannuation, will at the most get one term of re-appointment.</p>
<p>18. Mr. H.L. Karwa, ITAT, Bombay.</p>	<p>(1) Benefit of extension up to 65 years of age be given to the existing Chairmen/Members.</p>	<p>(1) As per proviso to Article 125 (2) and proviso to Article 221 (2) of Constitution of India, neither the allowances of a Judge nor his</p>

(2) Tenure posting of five years should not be made applicable in the Income Tax Appellate Tribunal in order to attract young talent.

rights in respect of leave' of absence or pension shall be varied to his/her disadvantage after his appointment. Some of the pay and allowances admissible to Chairman/Members proposed in the Bill may be less than the pay and allowance available under the current laws. Similarly, some other terms and conditions may be more beneficial in the proposed Bill. In order to ensure that a Chairperson/Member appointed after the new Act comes into force carry the same terms and conditions, and keeping in view the fact that the Chairman/Member appointed under existing laws were aware of the terms and conditions on which they were being appointed before they accepted their appointment, it is proposed not to provide any option to existing Chairperson/Members to opt for either the existing terms or new terms.

(2) The Government provided for one tenure of re-appointment keeping in view the needs of those Chairman/Members who are appointed at an early age. It will be seen that Judge/Government servant who join as Chairman/Members of a tribunal after their superannuation, will at the most get one term of re-appointment.

19. Mr. Sudhir Kumar, former Member (Administration) CAT

(1) Retirement age of Chairman, CAT is 68 years. This can't be reduced to 67 years.

(1 & 2) The Bill will apply prospectively. Hence, the existing terms and conditions of

Memorandum No.	Suggestions/View	Comments of DoJ
20.Mr. Chetan Sharma, Secretary General, Confederation of NCR, RWAS.	<p>(2) The allowances, presently being enjoyed by Chairman/Member of a Tribunal, cannot be reduced.</p> <p>(3) Leave sanctioning authority for Chairman of a Tribunal can't be minister.</p> <p>(4) Sanctioning authority for foreign travel in respect of Chairman/Members cannot be minister.</p> <p>The memorandum relates to Delhi High Court (Amendment) Bill, 2014.</p>	<p>Chairperson/Members of a Tribunal, including age of retirement, will not change.</p> <p>(3 &amp; 4) The GoM considered the matter at length and arrived at the proposed recommendation after due deliberation in order to provide uniformity.</p> <p>Needs no comments as it relates to another Bill.</p>
21.Mr. Pradeep S. Mehta, Secretary General, CUTS, Jaipur.	<p>(1) The Bill should have provisions on the process of removal of the Chairman and Members.</p> <p>(2) The Bill should prescribe the bench mark of pre-requisites for appointment of Members and Chairman.</p> <p>(3) The cooling off period of two years from date of retirement be provided.</p> <p>(4) Arbitration should be Totally banned for Chairman/Members.</p> <p>(5) The Bill should provide for uniform method of review and accountability for Chairman/Members.</p>	<p>(1) The procedure / provision of removal of Chairperson/Member of a Tribunal in the existing Acts governing these Tribunals shall apply.</p> <p>(2) The eligibility, qualifications and other bench mark for appointment of Chairperson/Members of a Tribunal will continue to be governed by the existing Acts relating to these Tribunals.</p> <p>(3) The Government did not receive or consider any proposal relating to cooling off period during the process of finalization of the Bill.</p> <p>(4) Prohibition on undertaking arbitration work has been included in Clause 7 of the Bill. However, if an incumbent is already undertaking arbitration work at the time of his/her</p>

appointment, he/she may be permitted to complete the arbitration work on a case to case basis.

(5) The issues relating to review/accountability of Chairperson/Members of a Tribunal will continue to be governed by the existing Acts relating to these Tribunals.

22.

23. Mr. M.R. Madhavan,  
PRS, Legislative Research,  
New Delhi.

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(1) Age of retirement should be uniformly fixed.

(2) No uniform criteria for inclusion of Tribunals within the ambit of the Bill.

(3) Potential conflict of interest in making the Minister as leave sanctioning authority.

(4) Fixed tenure for Chairperson and Members may deter younger applicants.

(5) Bill does not include grounds for removal.

(1) The age of retirement has been proposed by the Government in the Bill based on the source of recruitment to the Tribunals.

(2) Proviso to Clause 13 of the Bill clarifies that only such Tribunal, Board, Commission or Authority, shall be included in the First Schedule which has a sitting or retired Supreme Court or High Court Judge as Chairman or Member.

(3) The recommendation has been made after due deliberations by the GoM and accepted by the Cabinet.

(4) The Government provided for one tenure of reappointment keeping in view the needs of those Chairman/Members who are appointed at an early age. It will be seen that Judge/Government servant who join as Chairman/

Memorandum No.	Suggestions/View	Comments of DoJ
		<p>Members of a Tribunal after their superannuation, will at the most get one term of re-appointment.</p> <p>(5). The provision of removal of Chairperson/ Member of a Tribunal in the existing Acts governing these Tribunals shall apply.</p>
24. Mr. P.K. Jain, Mumbai.	(1) If passed, the Bill will create 2 sets of Members in the Tribunals.	<p>(1) Since the Law, once passed, will be applicable prospectively, there will be two sets of Members in the Tribunals until those appointed prior to enactment of the Bill superannuate. This is a normal transition phase after which all Members will have uniform terms and conditions.</p> <p>(2) As per proviso to Article 125 (2) and proviso to Article 221 (2) of Constitution of India, neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his/her disadvantage after his appointment. Some of the pay and allowances admissible to Chairman/Members proposed in the Bill may be less than the pay and allowance available under the current laws. Similarly, some other terms and conditions may be more beneficial in the proposed Bill. In order to ensure that a Chairperson/Member appointed after the new Act comes into force carry the same terms and conditions, and keeping in view</p>

(2) The Existing Chairman and the Members be given option to opt for new provisions relating to terms of office subject to specified age limit.

25. Mr. Radhey Shyam Gora,  
Advocate, Supreme Court of  
India, New Delhi

(1) Only 26 Tribunals have been covered in the Bill.

(2) Factual position with regard to staff cars, disposal, pendency etc. in the Tribunals has not been mentioned.

(3) No justification has been given for continuously keeping the position of Chairman and Members of the Tribunals reserved only for retired persons.

26 Mr. D. Ravikumar, Mumbai.

the fact that the Chairman/Member appointed under existing laws were aware of the terms and conditions on which they were being appointed before they accepted their appointment, it is proposed not to provide any option to existing Chairperson/Members to opt for either the existing terms or new terms.

(1) Proviso to Clause 13 of the Bill clarifies that only such Tribunal, Board, Commission or Authority, shall be included in the First Schedule which has a sitting or retired Supreme Court or High Court Judge as Chairman or Member.

(2) As regard staff car, conveyance facility has been provided in Schedule II to the Bill. Regarding issues relating to pendency, disposal etc., the Bill does not mention them specifically as review of performance will be done as per provision of the relevant existing Acts.

(3) The Bill does not require that only retired persons can be appointed as Chairman/Members of the Tribunals. However, it may happen that more incumbents, who are retired, may offer themselves to be appointed as Chairperson/Members of the Tribunals.

(1) The age of retirement has been proposed by the Government in the Bill based on the source of recruitment to the Tribunals.



Memorandum No.	Suggestions/View	Comments of DoJ
		(2) The position of Chairman/Member of Tribunal envisaged as whole time position requiring them to give their full time.
	(1) Retirement age should be uniform. (2) Practicing may be allowed to Chairman/ Members.	(3) LTC has been given in line with that available to High Court Judges.
	(3) LTC may be given once a year.	(4) Press Council of India is included.
	(4) Press Council of India not included.	(5) The daily allowance has been recommended based on what is available to a Secretary to Government of India. Note under Serial Number 3 of III Schedule already provides for increase in the Daily Allowance in proportion to the increase in the Dearness Allowance.
	(5) Daily allowances be increased.	
	(6) Salary to be mentioned in the Bill.	
	(7) Members to be from specific field.	(6) The Government decided to have uniform salary of ₹80,000 /- for High Court Judges and Secretary to Government of India. In deference to them, for Judges appointed from Supreme Court ₹90,000/- per month has been recommended. These salaries are already mentioned in the statutes of various Tribunals established under Central Acts.
		(7) The qualification/experience of Chairpersons/ Members are provided in the existing Acts relating to these Tribunals.
		(8) No reservation is provided in appointment of

8) Reservation of SC/ST/OBC to be provided.

Judges under the consideration. Hence it has also not been recommended in the Bill.

27. Mr. Shailendra Kumar

(1) Independence of Tribunals absent.

(1) There may not be any need to explicitly legislate on the independence of Tribunals as the provision relating to functioning/removal of Chairman/members of a Tribunal ensures such independence.

(2) Option may be given to existing Chairman/ Members to switch over to new Service Conditions.

(2) As per proviso to Article 125 (2) and proviso to Article 221 (2) of Constitution of India, neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his/her disadvantage after his appointment. Some of the pay and allowances admissible to Chairman/Members proposed in the Bill may be less than the pay and allowance available under the current laws. Similarly, some other terms and conditions may be more beneficial in the proposed Bill. In order to ensure that a Chairperson/Member appointed after the new Act comes into force carry the same terms and conditions, and keeping in view the fact that the Chairman/Member appointed under existing laws were aware of the terms and conditions on which they were being appointed before they accepted their appointment, it is proposed not to provide any option to existing Chairperson/Members to opt for either the existing terms or new terms.

Memorandum No.	Suggestions/View	Comments of DoJ
28. Mr. R.K. Jain, President Excise and Customs Bar Association, New Delhi.	(3) Many Tribunals excluded in the Bill.	(3) Proviso to Clause 13 of the Bill clarifies that only such Tribunal, Board, Commission or Authority, shall be included in the First Schedule which has a sitting or retired Supreme Court or High Court Judge as Chairman or Member.
	(1) Uniformity in the process of appointments in Tribunals absent in the Bill.	(1) The Bill does not deal with the process of appointment in the Tribunals, which is covered under the relevant existing Acts.
	(2) In order to achieve uniformity, administrative control of all Tribunals to be placed under one Nodal Agency.	(2) The issue whether all Tribunals established under the Central Acts can be brought under one nodal Ministry /Department was considered by the Inter Ministerial Group (IMG) headed by Secretary (Justice) in consultation with Ministries/Departments under which the tribunals administratively fall and it was decided that it is neither practical nor feasible to do so. This recommendation of IMG has been accepted by the Cabinet.
	(3) The Bill needs to be applicable to all Tribunals whether headed by the Supreme Court or High Court Judges or other than Judges.	(3) Proviso to Clause 13 of the Bill clarifies that only such Tribunal, Board, Commission or Authority, shall be included in the First Schedule which has a sitting or retired Supreme Court or High Court Judge as Chairman or Member.
	(4) Provisions should be made for removal of Chairman/Members in case of proven misconduct.	(4) The provision of removal of Chairperson/ Member of a Tribunal in the existing Acts governing these Tribunals shall apply.
	(5) There should be complete ban on arbitration work by the Chairman/Members and to take any office of profit.	
(6) Ban on the practice by the Chairman/ Members should also be applicable on all authorities under the Tribunals.		

(7) Declaration of assets and liabilities of spouse/dependent children of the Chairman/ Members also needs to be obtained.

(8) Provisions in the Bill relating to “leave” needs to be more specific.

(5) Prohibition on undertaking arbitration work has been included in Clause 7 of the Bill. However, if an incumbent is already undertaking arbitration work at the time of his appointment, he/ she may be permitted to complete the arbitration work on a case to case basis.

(6) There is no provision regarding practice before Court of Law. However, Clause 7 of the Bill prohibits a Chairman/Member to act as an arbitrator due to the reason that this position is a whole time position.

(7) The Chairpersons/Members are expected to declare the asset/liability owned by them including those which are formally in the name of their dependent spouse/children.

(8) Provisions relating to leave are similar to those for Judges of the Supreme Court and High Courts.

29. Shri A. K. Prasad, Member office of the Settlement Commission, Mumbai.

(1). Proviso to Clause 13(1) of the Bill needs to be deleted and even those Tribunals and Statutory Bodies or quasi-judicial bodies which are not necessarily headed by retired judges of the Supreme Court and High Court should be

(1). Proviso to Clause 13 of the Bill clarifies that presently such tribunals, Board, Commission or Authority have been included in the first schedule which has a sitting or retired Supreme Court or High Court Judge as Chairman and Member and which perform quasi-judicial functions. Settlement Commission does not fulfill the criteria and has not been included in the first schedule.

Memorandum No.	Suggestions/View	Comments of DoJ
	<p>identified and listed in the first schedule. Settlement Commission deserves to be included.</p> <p>(2). After the enactment of the bill, there would be two classes of Members of the said Tribunals, one governed by earlier provisions and others governed by the new Act, though both would be performing the same functions.</p> <p>(3). There should only be an overall retirement age limit of 65/67/70, as the case may be and there is no need to limit the tenure of five years at a time.</p> <p>(4). Separate provisions regarding allotment of accommodation for the General pool or Special pool, nature of accommodation, period of retirement etc. needs to be incorporated in the Bill.</p>	<p>(2). The law once passed, will apply prospectively. So, there will be two sets of Members in the Tribunals until those appointed prior to enactment of the Bill superannuate. This is a normal transitional phase after which all Members will have uniform terms and conditions.</p> <p>(3). The issue has been examined in detail by the GoM and it recommended that there should be a uniform tenure of five years. Chairpersons/ Members may be re-appointed for one term so long as they satisfy age condition. However, there is no bar on appointment on another Tribunal, provided the Member is within the prescribed age of retirement.</p> <p>(4). As regards residential accommodation, the provisions for Government Accommodation or House rent <i>in lieu</i> thereof are provided in the existing Acts relating to these Tribunals. Ministry of Urban Development, in consultation with NBCC, has developed a project at Ghitroni, New Delhi, on CPWD's land measuring 239 acres. Construction of housing at Ghitroni would add to the stock of Government houses available with the Ministry of Urban Development, from which 200 apartments (of 3000 sft. Size for Chairpersons and of 2500 sft. Size for Members) would be reserved for</p>

30. Shri S.K. Joshi, Registrar,  
Maharashtra Administrative  
Tribunal, Mumbai

Chairman/Members of Maharashtra Administrative Tribunal are of the view that service conditions of the Chairmen/Members of the State Administrative Tribunal may be continued to be governed by the conditions of service as applicable to Judges of the High Court.

residential accommodation of Chairpersons and Members of Tribunals/Quasi-Judicial Bodies as stock belonging to a pool of houses.

Some of the pay and allowances admissible to Chairman/Members proposed in the Bill may be less than the pay and allowances available under the current laws. Similarly, some other terms and conditions may be more beneficial in the proposed Bill. In order to ensure that a Chairperson/ Member appointed after the new Act comes into force carry the same terms and conditions, and keeping in view that fact that the Chairman/Member appointed under existing laws were aware of the terms and conditions on which they were being appointed before they accepted their appointment, it is proposed not to provide any option to existing Chairperson/ Member to opt for either the existing terms or new terms.

31. Shri M.L. Gupta,  
Director, Citizen's Right's  
Association, Nehru Nagar  
Ghaziabad

(1). Abolish system of Tribunal, Forums, Commission, and Board etc as it is a parallel judicial system.

(2). Collect details of pending cases, investigate reasons of pendency.

(3). People should be free to make complaint against President/ Chairpersons/Members for valid reasons.

(1). Very general statement, hence no comments.

(2). Based on O.M. No. Rs. 5/8/2014-P&L dated 16th September; 2014, Department of Justice has written to the Tribunals to provide various details, including relating to arrears of cases. Information is awaited from some of the Tribunals.

Memorandum No.	Suggestions/View	Comments of DoJ
32. Shri N.M. Misra, Member (Technical), Railway Claims Tribunal, Ahmedabad Bench	(4). Contempt of Court Law not to be made applicable.	(3). There is no bar on making complaints against Chairman/Members of the Tribunal.
	(5). Procedure regarding removal of President/Chairpersons/Members.	(4). The Contempt of Court Act, 1971 is applicable to Tribunals established by virtue of Article 323 A and 323 B of the Constitution of India.
	(6). No re-appointment in any case.	(5). The procedure regarding removal of Chairpersons/Members of a Tribunal in the existing Acts governing these Tribunals shall apply.
	(7). Facilities like residential accommodation, LTC, telephone and other facilities should not be given.	(6). The issue has been examined in detail by the GoM and it recommended that there should be a uniform tenure of five years. Chairpersons/Members may be re-appointed for one term so long as they satisfy age condition. However, there is no bar on appointment on another Tribunal, provided the Member is within the prescribed age of retirement.
	(8). Working hours and attendance should be maintained, as in Government office.	(7). These facilities have been provided on the basis of similar facilities available to Supreme Court and High Court Judges.
		(8). These details are not included in the Principal Legislation but in the Rules made thereunder.
	By excluding application of the Act to the existing members, there will be disparity in the pay and allowances drawn by Senior Members compared to junior Members of the Tribunal.	The law once passed, will apply prospectively. So, there will be two sets of Members in the Tribunals until those appointed prior to enactment of the Bill superannuate. This is a normal transitional phase after which all Members will have uniform terms and conditions.

