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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 28th December, 2007/*Pausa* 7, 1929 *(Saka)*

The following Act of Parliament received the assent of the President on the 25th December, 2007, and is hereby published for general information:—

THE ARMED FORCES TRIBUNAL ACT, 2007

No. 55 OF 2007

[*25th December,* 2007.]

An Act to provide for the adjudication or trial by Armed Forces Tribunal of disputes and complaints with respect to commission, appointments, enrolment and conditions of service in respect of persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950 and also to provide for appeals arising out of orders, findings or sentences of court martial held under the said Acts and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Armed Forces Tribunal Act, 2007.

(*2*) It shall come into force on such date as the Central Government may, by notification, appoint.

Applicability of the Act.

2. (*1*) The provisions of this Act shall apply to all persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950. 46 of 1950. 62 of 1957. 45 of 1950.

(*2*) This Act shall also apply to retired personnel subject to the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, including their dependants, heirs and successors, in so far as it relates to their service matters. 46 of 1950. 62 of 1957. 45 of 1950.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "Administrative Member" means a member of the Tribunal who is not a Judicial Member within the meaning of clause (*g*);

(*b*) "application" means an application made under sub-section (*2*) of section 14;

(*c*) "appointed day" means the date with effect from which the Tribunal is established by notification under section 4;

(*d*) "Bench" means a Bench of the Tribunal;

(*e*) "Chairperson" means the Chairperson of the Tribunal;

(*f*) "court martial" means a court martial held under the Army Act, 1950 or the Navy Act, 1957 including the disciplinary courts constituted under the Act or the Air Force Act, 1950; 46 of 1950. 62 of 1957. 45 of 1950.

(*g*) "Judicial Member" means a member of the Tribunal appointed as such under this Act, and includes the Chairperson, who possesses any of the qualifications specified in sub-section (*2*) of section 6;

(*h*) "Member" means a member (whether Judicial or Administrative) of the Tribunal and includes the Chairperson;

(*i*) "military custody" means the arrest or confinement of a person according to the usages of the service and includes naval or air force custody;

(*j*) "notification" means a notification published in the Official Gazette;

(*k*) "prescribed" means prescribed by rules made under this Act;

(*l*) "President" means the President of India;

(*m*) "rules" means the rules made under this Act;

(*n*) "service" means the service within or outside India;

(*o*) "service matters", in relation to the persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950, mean all matters relating to the conditions of their service and shall include— 46 of 1950. 62 of 1957. 45 of 1950.

(*i*) remuneration (including allowances), pension and other retirement benefits;

(*ii*) tenure, including commission, appointment, enrolment, probation, confirmation, seniority, training, promotion, reversion, premature retirement, superannuation, termination of service and penal deductions;

(*iii*) summary disposal and trials where the punishment of dismissal is awarded;

(*iv*) any other matter, whatsoever,

but shall not include matters relating to—

46 of 1950. 62 of 1957. 45 of 1950.

(*i*) orders issued under section 18 of the Army Act, 1950, sub-section (*1*) of section 15 of the Navy Act, 1957 and section 18 of the Air Force Act, 1950; and

46 of 1950. 62 of 1957. 45 of 1950.

(*ii*) transfers and postings including the change of place or unit on posting whether individually or as a part of unit, formation or ship in relation to the persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950;

(*iii*) leave of any kind;

(*iv*) summary court martial except where the punishment is of dismissal or imprisonment for more than three months;

(*p*) "summary disposals and trials" means summary disposals and trials held under the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950;

46 of 1950. 62 of 1957. 45 of 1950.

(*q*) "Tribunal" means the Armed Forces Tribunal established under section 4.

CHAPTER II

ESTABLISHMENT OF TRIBUNAL AND BENCHES THEREOF

Establishment of Armed Forces Tribunal.

4. The Central Government shall, by notification, establish a Tribunal to be known as the Armed Forces Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

Composition of Tribunal and Benches thereof.

5. (*1*) The Tribunal shall consist of a Chairperson, and such number of Judicial and Administrative Members as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches thereof.

(*2*) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.

(*3*) Notwithstanding anything contained in sub-section (*1*), the Chairperson—

(*a*) may, in addition to discharging the functions of a Judicial Member of the Bench to which he is appointed, discharge the functions of an Administrative Member of any other Bench;

(*b*) may transfer a Member from one Bench to another Bench;

(*c*) may, for the purpose of securing that any case or cases, which having regard to the nature of the questions involved, requires or require, in his opinion, or under the rules made under this Act, to be decided by a Bench composed of more than two members, issue such general or special orders, as he may deem fit:

Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Administrative Member.

(*4*) Subject to the other provisions of this Act, the Benches of the Tribunal shall ordinarily sit at Delhi (which shall be known as the Principal Bench), and at such other places as the Central Government may, by notification, specify.

Qualifications for appointment of Chairperson and other Members.

6. (*1*) A person shall not be qualified for appointment as the Chairperson unless he is a retired Judge of the Supreme Court or a retired Chief Justice of a High Court.

(*2*) A person shall not be qualified for appointment as a Judicial Member unless he is or has been a Judge of a High Court.

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

(*a*) he has held or has been holding the rank of Major General or above for a total period of at least three years in the Army or equivalent rank in the Navy or the Air Force; and

(*b*) he has served for not less than one year as Judge Advocate General in the Army or the Navy or the Air Force, and is not below the rank of Major General, Commodore and Air Commodore respectively.

Explanation.—When a serving person is appointed as an Administrative Member, he shall have retired from service prior to assuming such appointment.

Appointment of Chairperson and other Members.

7. (*1*) Subject to the provisions of this section, the Chairperson and other Members of the Tribunal shall be appointed by the President:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.

(*2*) The President may appoint one or more Members of the Tribunal to be the Vice-Chairperson, or, as the case may be, the Vice-Chairpersons, thereof.

Term of office.

8. The Chairperson or a Member shall hold office for a term of four years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no Chairperson shall hold office as such after he has attained,—

(*a*) in case he has been a Judge of the Supreme Court, the age of seventy years; and

(*b*) in case he has been the Chief Justice of a High Court, the age of sixty-five years:

Provided further that no other Member shall hold office as such Member after he has attained the age of sixty-five years.

Resignation and removal.

9. (*1*) The Chairperson or a Member may, by notice in writing under his hand addressed to the President, resign his office:

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

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

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

Salaries, allowances and other terms and conditions of service of Chairperson and other Members.

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

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson and other Members shall be varied to their disadvantage after their appointment.

Prohibitions as to holding of offices, etc., by Chairperson or Member on ceasing to be such Chairperson or Member.

11. On ceasing to hold office—

(*a*) the Chairperson shall be ineligible for further employment either under the Government of India or under the Government of a State;

(*b*) a Member other than the Chairperson shall, subject to the provisions of this Act, be eligible for appointment as a member of any other Tribunal but not for any other employment either under the Government of India or under the Government of a State; and

(*c*) the Chairperson or other Members shall not appear, act or plead before the Tribunal.

Financial and administrative powers of Chairperson.

12. The Chairperson shall exercise such financial and administrative powers over the Benches as may be prescribed:

Provided that the Chairperson shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the Tribunal, subject to the conditions that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

Staff of the Tribunal.

13. (*1*) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

(*2*) The salaries and allowances payable to, and the other terms and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

(*3*) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF THE TRIBUNAL

Jurisdiction, powers and authority in service matters.

14. (*1*) Save as otherwise expressly provided in this Act, the Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority, exercisable immediately before that day by all courts (except the Supreme Court or a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to all service matters.

(*2*) Subject to the other provisions of this Act, a person aggrieved by an order pertaining to any service matter may make an application to the Tribunal in such form and accompanied by such documents or other evidence and on payment of such fee as may be prescribed.

(*3*) On receipt of an application relating to service matters, the Tribunal shall, if satisfied after due inquiry, as it may deem necessary, that it is fit for adjudication by it, admit such application; but where the Tribunal is not so satisfied, it may dismiss the application after recording its reasons in writing.

(*4*) For the purpose of adjudicating an application, the Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office; 1 of 1872.

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) reviewing its decisions;

(*g*) dismissing an application for default or deciding it *ex parte*;

(*h*) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and

(*i*) any other matter which may be prescribed by the Central Government.

(*5*) The Tribunal shall decide both questions of law and facts that may be raised before it.

Jurisdiction, powers and authority in matters of appeal against court martial.

15. (*1*) Save as otherwise expressly provided in this Act, the Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable under this Act in relation to appeal against any order, decision, finding or sentence passed by a court martial or any matter connected therewith or incidental thereto.

(*2*) Any person aggrieved by an order, decision, finding or sentence passed by a court martial may prefer an appeal in such form, manner and within such time as may be prescribed.

(*3*) The Tribunal shall have power to grant bail to any person accused of an offence and in military custody, with or without any conditions which it considers necessary:

Provided that no accused person shall be so released if there appears reasonable ground for believing that he has been guilty of an offence punishable with death or imprisonment for life.

(*4*) The Tribunal shall allow an appeal against conviction by a court-martial where—

(*a*) the finding of the court martial is legally not sustainable due to any reason whatsoever; or

(*b*) the finding involves wrong decision on a question of law; or

(*c*) there was a material irregularity in the course of the trial resulting in miscarriage of justice,

but, in any other case, may dismiss the appeal where the Tribunal considers that no miscarriage of justice is likely to be caused or has actually resulted to the appellant:

Provided that no order dismissing the appeal by the Tribunal shall be passed unless such order is made after recording reasons therefor in writing.

(*5*) The Tribunal may allow an appeal against conviction, and pass appropriate order thereon.

(*6*) Notwithstanding anything contained in the foregoing provisions of this section, the Tribunal shall have the power to—

(*a*) substitute for the findings of the court martial, a finding of guilty for any other offence for which the offender could have been lawfully found guilty by the court martial and pass a sentence afresh for the offence specified or involved in such findings under the provisions of the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, as the case may be; or

46 of 1950.
62 of 1957.
45 of 1950.

(*b*) if sentence is found to be excessive, illegal or unjust, the Tribunal may—

(*i*) remit the whole or any part of the sentence, with or without conditions;

(*ii*) mitigate the punishment awarded;

(*iii*) commute such punishment to any lesser punishment or punishments mentioned in the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950, as the case may be;

46 of 1950.
62 of 1957.
45 of 1950.

(*c*) enhance the sentence awarded by a court martial:

Provided that no such sentence shall be enhanced unless the appellant has been given an opportunity of being heard;

(*d*) release the appellant, if sentenced to imprisonment, on parole with or without conditions;

(*e*) suspend a sentence of imprisonment;

(*f*) pass any other order as it may think appropriate.

(*7*) Notwithstanding any other provisions in this Act, for the purposes of this section, the Tribunal shall be deemed to be a criminal court for the purposes of sections 175, 178, 179, 180, 193, 195, 196 or 228 of the Indian Penal Code and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.
2 of 1974.

16. (*1*) Except as provided by this Act, where the conviction of a person by court martial for an offence has been quashed, he shall not be liable to be tried again for that offence by a court-martial or by any other Court. Re-trial.

(*2*) The Tribunal shall have the power of quashing a conviction, to make an order authorising the appellant to be retried by court martial, but shall only exercise this power when the appeal against conviction is allowed by reasons only of evidence received or available to be received by the Tribunal under this Act and it appears to the Tribunal that the interests of justice require that an order under this section should be made:

Provided that an appellant shall not be retried under this section for an offence other than—

(*a*) the offence for which he was convicted by the original court martial and in respect of which his appeal is allowed;

(*b*) any offence for which he could have been convicted at the original court martial on a charge of the first-mentioned offence;

(*c*) any offence charged in the alternative in respect of which the courtmartial recorded no finding in consequence of convicting him of the first-mentioned offence.

(*3*) A person who is to be retried under this section for an offence shall, if the Tribunal or the Supreme Court so directs, whether or not such person is being tried or retried on one or more of the original charges, no fresh investigation or other action shall be taken under the relevant provision of the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, or rules and regulations made thereunder, in relation to the said charge or charges on which he is to be retried. 46 of 1950. 62 of 1957. 45 of 1950.

Powers of the Tribunal on appeal under section 15.

17. The Tribunal, while hearing and deciding an appeal under section 15, shall have the power—

(*a*) to order production of documents or exhibits connected with the proceedings before the court martial;

(*b*) to order the attendance of the witnesses;

(*c*) to receive evidence;

(*d*) to obtain reports from court martial;

(*e*) order reference of any question for enquiry;

(*f*) appoint a person with special expert knowledge to act as an assessor; and

(*g*) to determine any question which is necessary to be determined in order to do justice in the case.

Cost.

18. While disposing of the application under section 14 or an appeal under section 15, the Tribunal shall have power to make such order as to costs as it may deem just.

Power to punish for contempt.

19. (*1*) Any person who is guilty of contempt of the Tribunal by using any insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such Tribunal shall, on conviction, be liable to suffer imprisonment for a term which may extend to three years.

(*2*) For the purposes of trying an offence under this section, the provisions of sections 14, 15, 17, 18 and 20 of the Contempt of Courts Act, 1971 shall *mutatis mutandis* apply, as if a reference therein to— 70 of 1971.

(*a*) Supreme Court or High Court were a reference to the Tribunal;

(*b*) Chief Justice were a reference to the Chairperson;

(*c*) Judge were a reference to the Judicial or Administrative Member of the Tribunal;

(*d*) Advocate-General were a reference to the prosecutor; and

(*e*) Court were a reference to the Tribunal.

Distribution of business among the Benches.

20. The Chairperson may make provisions as to the distribution of the business of the Tribunal among its Benches.

IndiaCode

CHAPTER IV

PROCEDURE

Application not to be admitted unless other remedies exhausted.

21. (*1*) The Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of the remedies available to him under the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, and respective rules and regulations made thereunder.

46 of 1950. 62 of 1957. 45 of 1950.

(*2*) For the purposes of sub-section (*1*), a person shall be deemed to have availed of all the remedies available to him under the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, and respective rules and regulations—

46 of 1950. 62 of 1957. 45 of 1950.

(*a*) if a final order has been made by the Central Government or other authority or officer or other person competent to pass such order under the said Acts, rules and regulations, rejecting any petition preferred or representation made by such person;

(*b*) where no final order has been made by the Central Government or other authority or officer or other person competent to pass such order with regard to the petition preferred or representation made by such person, if a period of six months from the date on which such petition was preferred or representation was made has expired.

Limitation.

22. The Tribunal shall not admit an application—

(*a*) in a case where a final order such as is mentioned in clause (*a*) of sub-section (*2*) of section 21 has been made unless the application is made within six months from the date on which such final order has been made;

(*b*) in a case where a petition or a representation such as is mentioned in clause (*b*) of sub-section (*2*) of section 21 has been made and the period of six months has expired thereafter without such final order having been made;

(*c*) in a case where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which jurisdiction, powers and authority of the Tribunal became exercisable under this Act, in respect of the matter to which such order relates and no proceedings for the redressal of such grievance had been commenced before the said date before the High Court.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Tribunal may admit an application after the period of six months referred to in clause (*a*) or clause (*b*) of sub-section (*1*), as the case may be, or prior to the period of three years specified in clause (*c*), if the Tribunal is satisfied that the applicant had sufficient cause for not making the application within such period.

Procedure and powers of the Tribunal.

23. (*1*) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and any rules made thereunder, the Tribunal shall have the power to lay down and regulate its own procedure including the fixing of place and time of its inquiry and deciding whether to sit in public or *in camera*.

5 of 1908.

(*2*) The Tribunal shall decide every application made to it as expeditiously as possible after a perusal of documents, affidavits and written representations and after hearing such oral arguments as may be advanced:

Provided that where the Tribunal deems it necessary, for reasons to be recorded in writing, it may allow oral evidence to be adduced.

(*3*) No adjournment shall be granted by the Tribunal without recording the reasons justifying the grant of such adjournment and cost shall be awarded, if a party requests for adjournment more than twice.

Term of sentence and its effect on appeal.

24. (*1*) The term of any sentence passed by the Tribunal under clause (*a*) of sub-section (*6*) of section 15 of this Act shall, unless the Tribunal otherwise directs, be reckoned to commence on the day on which it would have commenced under the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, under which the court martial against which the appeal was filed, had been held. 46 of 1950. 62 of 1957. 45 of 1950.

(*2*) Subject to the provisions of sub-section (*3*), any sentence passed on an appeal from the Tribunal to the Supreme Court in substitution for another sentence shall, unless the Supreme Court otherwise directs, be reckoned to commence on the day on which the original sentence would have commenced.

(*3*) Where a person who is undergoing sentence is granted stay of the operation of the said sentence, either by suspension or otherwise, pending an appeal, the period during which he is so released due to the sentence having been so stayed, shall be excluded in computing the term for which he is so sentenced by the Tribunal or the Supreme Court, as the case may be.

Right of applicant or of appellant to take assistance of a legal practitioner and of Government, etc., to appoint counsel.

25. (*1*) A person making an application or preferring an appeal to the Tribunal may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(*2*) The Central Government or the competent authority, as may be prescribed, may authorise one or more legal practitioners or any of its law officers to act as counsel and every person so authorised by it may present its case with respect to any application or appeal, as the case may be, before the Tribunal.

Condition as to making of interim order.

26. (*1*) Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on an application or appeal, or in any proceeding relating thereto, unless,—

(*a*) copies of such application or appeal, as the case may be, and all documents in support of the plea for such interim order are furnished to the party against whom such application or appeal, as the case may be, is made or proposed to be made; and

(*b*) opportunity of being heard is given to the other party in the matter:

Provided that the Tribunal may dispense with the requirements of clauses (*a*) and (*b*) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant or to the appellant, as the case may be.

(*2*) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on an application or appeal or in any proceeding relating thereto under sub-section (*1*), without—

(*a*) furnishing to such party copies of such application or appeal, as the case may be, and all documents in support of the plea for such interim order; and

(*b*) giving such party an opportunity of being heard, and making an application to the Tribunal for the vacation of such order and furnishing a copy of such application

or appeal, as the case may be, to the party in whose favour such order has been made or the counsel of such party,

the Tribunal shall dispose of the application within a period of fourteen days from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the Tribunal is closed on the last day of that period, before the expiry of the next working day; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next working day, stand vacated.

Power of Chairperson to transfer cases from one Bench to another.

27. On the application of any of the parties and after notice to the parties concerned, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson may transfer any case pending before one Bench for disposal, to any other Bench.

Decision to be by majority.

28. If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard the case, including those who first heard it.

Execution of order of Tribunal.

29. Subject to the other provisions of this Act and the rules made thereunder, the order of the Tribunal disposing of an application shall be final and shall not be called in question in any Court and such order shall be executed accordingly.

CHAPTER V

APPEAL

Appeal to Supreme Court.

30. (*1*) Subject to the provisions of section 31, an appeal shall lie to the Supreme Court against the final decision or order of the Tribunal (other than an order passed under section 19):

Provided that such appeal is preferred within a period of ninety days of the said decision or order:

Provided further that there shall be no appeal against an interlocutory order of the Tribunal.

(*2*) An appeal shall lie to the Supreme Court as of right from any order or decision of the Tribunal in the exercise of its jurisdiction to punish for contempt:

Provided that an appeal under this sub-section shall be filed in the Supreme Court within sixty days from the date of the order appealed against.

(*3*) Pending any appeal under sub-section (*2*), the Supreme Court may order that—

(*a*) the execution of the punishment or the order appealed against be suspended;

or

(*b*) if the appellant is in confinement, he be released on bail:

Provided that where an appellant satisfies the Tribunal that he intends to prefer an appeal, the Tribunal may also exercise any of the powers conferred under clause (*a*) or clause (*b*), as the case may be.

Leave to appeal.

31. (*1*) An appeal to the Supreme Court shall lie with the leave of the Tribunal; and such leave shall not be granted unless it is certified by the Tribunal that a point of law of general public importance is involved in the decision, or it appears to the Supreme Court that the point is one which ought to be considered by that Court.

(*2*) An application to the Tribunal for leave to appeal to the Supreme Court shall be made within a period of thirty days beginning with the date of the decision of the Tribunal and an application to the Supreme Court for leave shall be made within a period of thirty days beginning with the date on which the application for leave is refused by the Tribunal.

(*3*) An appeal shall be treated as pending until any application for leave to appeal is disposed of and if leave to appeal is granted, until the appeal is disposed of; and an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it might have been made, but it is not made within that time.

Condonation.

32. The Supreme Court may, upon an application made at any time by the appellant, extend the time within which an appeal may be preferred by him to that Court under section 30 or sub-section (*2*) of section 31.

CHAPTER VI

MISCELLANEOUS

Exclusion of jurisdiction of civil courts.

33. On and from the date from which any jurisdiction, powers and authority becomes exercisable by the Tribunal in relation to service matters under this Act, no Civil Court shall have, or be entitled to exercise, such jurisdiction, power or authority in relation to those service matters.

Transfer of pending cases.

34. (*1*) Every suit, or other proceeding pending before any court including a High Court or other authority immediately before the date of establishment of the Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based, is such that it would have been within the jurisdiction of the Tribunal, if it had arisen after such establishment within the jurisdiction of such Tribunal, stand transferred on that date to such Tribunal.

(*2*) Where any suit, or other proceeding stands transferred from any court including a High Court or other authority to the Tribunal under sub-section (*1*),—

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

(*b*) the Tribunal may, on receipt of such records, proceed to deal with such suit, or other proceeding, so far as may be, in the same manner as in the case of an application made under sub-section (*2*) of section 14, from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Tribunal may deem fit.

Provision for filing of certain appeals.

35. Where any decree or order has been made or passed by any court (other than a High Court) or any other authority in any suit or proceeding before the establishment of the Tribunal, being a suit or proceeding the cause of action whereon it is based, is such that it would have been, if it had arisen after such establishment, within the jurisdiction of the Tribunal, and no appeal has been preferred against such decree or order before such establishment or if preferred, the same is pending for disposal before any court including High Court and the time for preferring such appeal under any law for the time being in force had not expired before such establishment, such appeal shall lie to the Tribunal, within ninety days from the date on which the Tribunal is established, or within ninety days from the date of receipt of the copy of such decree or order, whichever is later.

IndiaCode

45 of 1860.

36. All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Proceedings before Tribunal to be judicial proceedings.

45 of 1860.

37. The Chairperson, other Members and the officers and other employees provided under section 13 to the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members and staff of Tribunal to be public servants.

38. No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson or any other Member or any other person authorised by the Chairperson, for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made thereunder in the discharge of official duties.

Protection of action taken in good faith.

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

Act to have overriding effect.

40. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

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

41. (*1*) The Central Government may, by notification, make rules for the purposes of carrying out the provisions of this Act.

Power of Central Government to make rules.

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

(*a*) the case or cases which shall be decided by a Bench composed of more than two Members under clause (*c*) of sub-section (*3*) of section 5;

(*b*) the procedure under sub-section (*3*) of section 9 for the investigation of misbehaviour or incapacity of Chairperson or other Member;

(*c*) the salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and other Members under section 10;

(*d*) the financial and administrative powers which the Chairperson may exercise over the Benches of the Tribunal under section 12;

(*e*) the salaries and allowances payable to, and other terms and conditions of service of the officers and other employees of the Tribunal under sub-section (*2*) of section 13;

(*f*) the form in which an application may be made under sub-section (*2*) of section 14, the documents and other evidence by which such application shall be accompanied and the fee payable in respect of the filing of such application or for the service of execution of processes;

(*g*) the other matter which may be prescribed under clause (*i*) of sub-section (*4*) of section 14;

(*h*) the form and manner in which an appeal may be filed, the fee payable thereon and the time within which such appeal may be filed under sub-section (*2*) of section 15;

(*i*) the rules subject to which the Tribunal shall have power to regulate its own procedure under sub-section (*1*) of section 23;

(*j*) competent authority who may authorise legal practitioners or law officers to act as counsel under sub-section (*2*) of section 25;

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

Power to make rules retrospectively.

42. The powers to make rules under section 41 shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act shall come into operation but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.

Laying of rules.

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

BRAHM AVTAR AGRAWAL,
Additional Secretary to the Govt. of India.

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