MINISTRY OF DEFENCE

NOTIFICATION

New Delhi, the 11th May, 2009

S.R.O. 6(E).— In exercise of the powers conferred by clauses (f), (g) and (k) of sub-section (2) of section 41 of the Armed Forces Tribunal Act, 2007 (55 of 2007), the Central Government hereby makes the following rules, namely:-

1. **Short title and commencement** – (1) These rules may be called the Armed Forces Tribunal (Practice) Rules, 2009.

(2) They shall come into force from the date of publication in the official gazette.

2. **Definitions** – (1) In these rules, unless the context otherwise requires, –

(i) "Act" means the Armed Forces Tribunal Act, 2007 (55 of 2007);

(ii) "agent" means a person duly authorised by a party to present an application, written reply, rejoinder or any other document on its behalf before the Tribunal;

(iii) "applicant" means a person making an application to the Tribunal under sub-section (2) of section 14 or an appeal under sub-section (2) of section 15 of the Act;

(iv) "application" includes Original Application (O.A.), Review Application (R.A.), Transferred Application (T.A.), Miscellaneous Application (M.A), Application for Transfer (A.T.) and Contempt Application (C.A), filed before the Tribunal;

(v) "Code" means the Code of Civil Procedure, 1908 (5 of 1908);

(vi) "Court appealed from" includes a tribunal or any other judicial body or court martial or authority against the decision of which an appeal is preferred to the Tribunal;

(vii) "Form" means the form set out in the appendices A and B to these rules;

(viii) "Full Bench" means a Bench duly constituted consisting of three or more Members.

(ix) "Judgment" includes decree, order, sentence or determination of any Court, Tribunal, Judge, Judicial officer or authority;

(x) "Legal practitioner" shall have the same meaning as assigned to it in the Advocates Act, 1961 (25 of 1961) and includes a Standing Counsel authorised or appointed by the Central Government to accept the service for any Department or Organization of the Union of India;

(xi) "Legal representative" means person who represents the estate of a serving or deceased person and includes a person or persons in whom the right to receive

pensionary, retirement, terminal, disability or other benefits or family pension vests under any law for the time being in force;

(xii) "Officer of the Judge-Advocate General's Department" means an officer commissioned into the Judge-Advocate General's Department of the Army or an officer permanently transferred to that Department after qualifying at the Judge-Advocate General's Departmental examination and includes an officer of Judge-Advocate General's Department of Navy and Air Force;

(xiii) "Procedure Rules" means the Armed Forces Tribunal (Procedure) Rules, 2008 under the Act;

(xiv) "Pleadings" shall include original applications, reply statement, rejoinders and additional applications or statements supplementing the original applications and the reply statements, as may be permitted by the Tribunal;

(xv) "Registrar" means Registrar of the Armed Forces Tribunal or its Benches and shall include Registrar-General, Principal, Additional, Joint and Deputy Registrars, authorised to discharge the functions of the Registrar;

(xvi) "Registry" means the Registry of the Tribunal or any of its Benches, as the case may be;

(xvii) "Section" means a section of the Act;

(xviii) "Services" means the Army, Navy and Air Force, as applicable;

(xix) "Standing Counsel" means an advocate authorised to act, represent and accept the service for the Army, Navy or Air Force or for the Union of India;

(xx) "Transferred application" means the suit or other proceeding which has been transferred to the Tribunal under sub-section (1) or sub-section (2) of section 34;

(xxi) "Vice-Chairperson" means a Vice-Chairperson of the Tribunal appointed under sub-section (2) of section 7 of the Act.

(2) The words and expressions used and not defined in these rules but defined in the Act, the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950) shall have the same meaning respectively assigned to them in those Acts and respective rules made there under.

PREPARATION AND PRESENTATION OF PLEADINGS AND OTHER PAPERS

3. **Preparation of pleadings and other papers**.- (1) All pleadings, affidavits, memoranda and other papers filed in the Tribunal shall be fairly and legibly typed written or printed in English or Hindi Language on durable white full escape folio paper of metric A-4 size (30.5 cms long and 21.5 cms wide) on one side only in double space with a left margin of 5 cms and right margin of 2.5 cms duly paginated, indexed and stitched together in the paper book form.

(2) English translation of documents or pleadings shall be duly authenticated by any legal practitioner.

4. Date and signature.- A party required to affix his signature shall also state his name in capital letters near his signature and, initial or sign at the bottom of each page and shall also put date beneath his signature on the last page.

Explanation - The expression 'signature' or 'initial' includes thumb-mark.

5. Attestation - (1) The attestation contemplated in sub-rule (2) of rule 9 of the AFT (Procedure) Rules 2008, shall be made at the end of the document in the form given below:

"This Annexure ------- is the true copy of the original document".

(Signature)

Name and Designation of the Attestor with date".

(2) Sub-rule (1) above shall also govern production of photocopies of the documents, provided they are clear and legible.

6. Production of authorisation for and on behalf of more than one person – Where an application or pleading or other proceeding is purported to be filed by more than one person as single application under sub-rule (5) of rule 4 of the AFT (Procedure) Rules 2008, the person or persons who sign or verify the same shall produce along with such application, etc. for verification by the registry, a true copy of the authorisation or *Vakalatnama* empowering such person(s) to do so:

Provided that the Registrar may at any time call upon the party to produce such further materials as he deems fit for satisfying himself about due authorisation.

7. Procedure on production of defaced, torn or damaged documents - When a document produced along with any pleading appears to be defaced, torn, or in any way damaged or otherwise its condition or appearance requires special notice, a mention regarding its condition and appearance shall be made by the party producing the same in the index of such a pleading and the same shall be verified and initialled by the officer authorised to receive the same.

8. Receipt of papers - (1) All pleadings and papers shall be received in the Registry only during the office hours on the working days, provided they are presented or sent by post in the manner provided under rule 4 of the AFT (Procedure) Rules 2008.

(2) All pleadings and papers received before 12 noon shall ordinarily be processed immediately for being listed before the Bench on the next working day.

9. **Date of stamping of papers and maintenance of Inward Register** - (1) The receiving branch of the Registry shall immediately on receipt of any application or appeal or other pleadings or papers and in accordance with rule 5 of the AFT (Procedure) Rules 2008, and affix the date-stamp of the tribunal in the following manner:

(i) Date-stamp shall be affixed on all pages of the main copy and on the first page of each other copy.

(ii) Receiving clerk shall affix his initials on the stamp affixed on the first page of the main application or appeal and on the first page of all other copies.

(2) Receiving branch of the Registry shall after affixation of the date-stamp, enter the details thereof in the inward Register, **Register No. I** and assign a diary number. The Index shall be in **Form No. 1.** The same diary number shall be entered immediately below the date-stamp on the first page of the main application or appeal and on the first page of all other copies.

IndiaCode

SCRUTINY, REGISTRATION, NUMBER AND POSTING FOR ADMISSION OR ORDERS

10. **Scrutiny of application or petition or other pleadings and papers** - (1) The Scrutiny Branch of the Registry shall, on receipt of the application or appeal or pleadings from the receiving branch, scrutinise the same as expeditiously as possible but not beyond two days from the date of receipt:

Provided that if, for any reason, the scrutiny is not completed within the said period, the same shall be immediately reported to the Registrar, who shall take prompt steps to complete the scrutiny.

(2) The report of the scrutiny of the application shall be in **Form No. 2** and of Contempt Application either Civil or Criminal in **Form No. 3** and the scrutiny report shall be annexed to the application or appeal.

(3) Report of scrutiny of all other pleadings and papers shall be recorded on the reverse side of the last page of such pleadings or papers.

11. **Maintenance of Order Sheet** - (1) The Scrutiny Branch shall attach an order sheet to every OA or RA or TA or AT or CA in duplicate in **Form No.4.**

(2) The column "Notes of the Registry" in the order sheet shall be used for the notings by the Registry and the column "Orders of the Tribunal" is meant for the use of the Bench.

(3) (a) The entries in the order sheet shall be in hand writing and removal of the order sheet for typing should be avoided.

(b) Continuous page numbers should be given to the order sheet.

(c) Before any entry is made in the order sheet for the day, the date, month and year shall first be entered and underlined in the middle of the column.

(d) Brief order may be written on the order sheet itself and initialled by the Members of the Bench.

(e) In the case of lengthy orders, only the operative portion of the order need be entered in the column "Orders of the Tribunal" and initialled by the Tribunal Officer.

(f) The orders shall be annexed to the order sheet giving them continuous paging and reference to the order shall be made by mentioning only page number of the order annexed.

(g) The presence of the legal practitioner or party be indicated by their initials.

(h) No gaps shall be left between two entries in the order sheet and the gaps, if any, shall be covered by drawing a line across.

12. Classification of papers - (1) The papers received in the Registry in all applications and Contempt applications except Miscellaneous applications, shall be classified and placed in files "A", "B" and "C" as provided in **Form No. 5.**

(2) (i) File "A" shall consist of two separate parts i.e. Part I and Part II. Part I shall contain the order sheet and orders annexed thereto and Part II shall contain the application with annexures, reply with annexures and rejoinder with annexures and arrange as far as possible consecutively in the order of the parties.

(ii) File "B" shall contain the duplicate copy of the papers as in File "A".

(iii) File "C" shall contain the remaining papers including *Vakalatnama*, notices, postal acknowledgements, miscellaneous applications, replies and rejoinders thereto and Supreme Court orders, etc., if any.

13. Submission of case files to Registrar - On completion of the scrutiny, the Scrutiny Branch shall place the case file duly classified as "A", "B" or "C" along with the report of scrutiny and the order sheet before the Registrar for his orders.

14. Registration and Numbering - (1) The Registrar on examining the application or appeal or pleadings and the scrutiny report shall, if they are in order, direct registration or acceptance.

(2) Applications under section 14 of the Act ordered to be registered shall be numbered as O.A. No _____ /20

(3) Cases received on transfer under section 27 or section 34 of the Act shall be numbered as A.T. /T.A. No _____ /20

(4) Applications received from the Supreme Court, High Courts and other Courts purporting to be by transfer but not covered by section 34 of the Act shall be numbered as Original Applications of the year during which they are received.

(5) Applications for review of any order of the Tribunal and ordered to be registered shall be numbered as R.A. No. _____ /20 .

(6) Applications under the Contempt of Courts Act 1973 ordered to be registered, shall be numbered as C.A. (Civil/Criminal) No _____/20 .

(7) Other applications of miscellaneous nature ordered to be registered shall be numbered as M.A. No. _____ /20 .

(8) Applications referred to in this rule shall be entered in **Register No. II**.

(9) Separate registers shall be used for each category of applications referred to in this rule.

(10) The Registers shall be maintained from 1st January to 31st December of each calendar year.

15. Maintenance of Indian Postal Orders or Demand Drafts Register - (1) Indian Postal Orders or Demand Drafts received in the Registry shall be entered immediately on their receipt in the Judicial Branch in **Register No.III**.

(2) On every first working day of the week, the Indian Postal Orders or Demand Drafts received by the Judicial Branch during the previous week shall be transmitted along with the Indian Postal Orders or Demand Drafts Register to the Section Officer in-charge of Judicial Branch, who after scrutiny shall affix his initials in the relevant column in the register and transmit the same to the Cash Section.

(3) The officer in-charge of Cash Section shall, after verifying the entries in the Register along with the Indian Postal Orders or Demand Drafts, put his initials in the relevant column in the Register in token of acknowledgment.

16. Rectification of defects - (1) If on scrutiny, any application or pleading filed in the Tribunal is found to be defective, the Registrar shall notify in **Form No. 6** on the notice board of the Tribunal fixing the time for rectifying the same in the manner as provided under rule 5 of the AFT (Procedure) Rules 2008.

IndiaCode

(2) The Registrar may, for good and sufficient reasons, extend the time for rectifying the defects, provided the total period for rectification including the extended period does not exceed thirty days.

(3) If the party or his legal practitioner contests the office objection and the Registrar is not satisfied, the matter shall be placed before the Bench for appropriate orders.

(4) If the party or its legal practitioner rectifies the defects and submits the application or pleadings within the time granted, the Registrar on being satisfied, may order for its registration or acceptance and numbering as provided in sub-rule (2) of the rule 5 of the AFT (Procedure) Rules 2008.

(5) The papers shall be returned to the party or his legal practitioner only after obtaining acknowledgment thereof in the Inward Register – Register No.I.

17. Posting of cases for admission or orders before the Bench. - (1) Subject to the orders of the Chairperson or Vice-Chairperson of the concerned Bench, all registered applications or appeals shall be posted for admission or orders before the appropriate Bench on the next working day.

(2) The notice of posting shall be given by notifying in the daily cause list for the day in such manner as the Chairperson may by general or special order direct.

(3) Before placing the records of the case for admission or order, the Registry shall state in brief in the column "Notes of the Registry" of the Order sheet, the date of presentation and registration, the subject matter of the application and the date of posting before the Bench and fill up the columns in file covers "A" and "B".

(4) The constitution of Benches and distribution of work shall be as per the orders as may be made by the Chairperson from time to time.

18. Posting of urgent cases - Notwithstanding anything contained in rule 14 of the AFT (Procedure) Rules 2008, the Chairperson or Vice-Chairperson and in his absence the senior most Member of the Bench may order any case not included in the daily cause list to be listed on urgent basis for admission or orders. Such directions shall promptly be carried out by the Registry after completing all the formalities.

19. Matters to be attended to prior to commencement of sitting - (1) Unless otherwise directed by the Members constituting the Bench, the Tribunal Officer shall ensure that records of the cases listed for admission or orders before the Bench on the next working day are sent to the residence of the Members before the evening of the day on which the cause list is published.

(2) The Tribunal Officer shall ensure that the case records so sent to the residence of the Members are brought back to the concerned Court Hall before the commencement of the Court sitting.

(3) The Tribunal Officer shall verify the case records listed for the day and arrange them in the serial order as given in the cause list before the commencement of the sitting.

(4) The Tribunal Officer of the Bench concerned shall ensure that the Court Hall is ready for commencement of the sitting at the prescribed time for such sitting.

(5) If for any reason, the Bench cannot sit or the sitting is delayed, the Registrar shall immediately obtain the orders of the Chairperson or Vice-Chairperson and notify the same on the notice board and in the Court Hall through the Tribunal Officer.

20. Maintenance of Tribunal diary - (1) The Tribunal Officer of the Bench concerned shall maintain legibly a Tribunal Diary in **Register No. IV**, wherein he shall record the proceedings of the Tribunal for each sitting day with respect to the applications listed in the daily cause list.

(2) The matters to be recorded in the Tribunal Diary shall include details as to whether the case is adjourned, or part-heard or heard and disposed of or heard and orders reserved, as the case may be.

21. Statutes or Citations for reference - The parties or legal practitioners shall before the commencement of the proceedings for the day, furnish to the Tribunal Officer a list of law journals, reports, statutes and other citations, which may be cited for reference.

22. Calling of cases in Tribunal - The Tribunal Officer shall call the cases listed in the cause list in the serial order in accordance with rules 14 and 15 of the AFT (Procedure) Rules 2008, and orders of the Bench.

23. Regulation of Tribunal Work - (1) When the Bench is sitting, the Tribunal Officer shall ensure -

(a) that no inconvenience or wastage of time is caused to the Bench in making available the services of Tribunal Master, stenographer or peon;

(b) that perfect silence is maintained in and around the Tribunal Hall and no disturbance whatsoever is caused to the functioning of the Bench; and

(c) that proper care is taken to maintain dignity and decorum of the Tribunal.

(2) When the Bench passes an order or direction, the Tribunal Officer shall ensure that the records of the case along with proceedings or orders of the Bench are transmitted immediately to the Judicial Branch.

(3) The Judicial Branch shall verify the case records received from the Tribunal Officer with reference to the cause list and take immediate steps to communicate the directions or orders of the Bench to all concerned.

SERVICE OF NOTICE

24. Issue of Notices. - (1) Unless otherwise ordered by the Tribunal, when a notice is ordered, the applicant shall, in cases governed by sub-rule (5) of the rule 11 of the AFT (Procedure) Rules 2008, pay the prescribed fee for service of notice accompanied by a memo in **Form No. 7** within seven days from the date of order and in case of default, no notice shall be issued to any of the respondents and the matter shall be placed immediately before the Bench for appropriate orders.

(2) Where the notice is returned to the Tribunal with an endorsement of the postman regarding non-service owing to refusal of the same by the party concerned, the Registrar shall declare that the notice has been duly served on the respondent.

(3) Where the notice was properly addressed, prepaid and duly sent by registered post, acknowledgment due, the declaration referred to in sub-rule (2) shall be made when for any reason the acknowledgment is not received by the Tribunal within thirty days from the date of the issue of the notice.

25. Steps for issue of fresh notice - (1) If any notice is returned unserved under the circumstances not specified in sub-rules (2) and (3) of rule 24, the facts and the reason therefor shall be notified immediately on the notice board of the Registry.

(2) The applicant or his legal practitioner shall within seven days from the date of such notice take steps for service of fresh notice.

26. Consequence of failure to take steps for issue of fresh notice - If the applicant or his legal practitioner fails to take necessary steps in time for service of fresh notice on the respondent(s) and consequently, the service remains incomplete, the Registrar shall post the case before the Bench for further directions.

27. Service of notice, etc. on legal practitioners - A legal practitioner representing a party in any proceeding and any person authorised to accept notices on behalf of a party, shall receive notices, orders, directions, pleadings, etc. required to be served on such party in connection with such proceedings and such service shall be deemed to be proper service on the party.

28. Form of Notice - Notice to show cause regarding admission shall be in **Form No. 8.** and the notice ordered after admission shall be in **Form No. 9.**

29. Entries regarding service of notice or process - The Judicial Branch of the Registry shall record in the column in the order sheet "Notes of the Registry", the details regarding completion of service of notice on the respondents, such as date of issue of

notice, date of service, date of return of notice

if unserved, steps taken for issuing fresh notice and date of completion of service, etc.

FILING OF REPLY STATEMENT OR REJOINDER

30. Filing of Reply Statement - (1) Each respondent shall file the reply statement in the manner as provided under rule 12 of the AFT (Procedure) Rules 2008.

(2) When all or any of the respondent(s) fail to file reply statement in the form, manner and within the time as provided under rule 12 of the AFT (Procedure) Rules 2008, the case shall be deemed to be ready for hearing and included in the ready list for final hearing.

31. Filing of rejoinder - (1) The applicant(s) intending to file rejoinder to the reply statement filed by all or any of the respondent(s) shall do so, with the leave of the Bench or Registrar within the time granted.

(2) The rejoinder shall be filed within the time granted, duly signed and verified in the manner prescribed for filing reply statement under rule 12 of the AFT (Procedure) Rules 2008.

(3) After the expiry of the time granted for filing the rejoinder, the case shall be deemed to be ready for hearing and included in the list for final hearing.

32. Papers not to form part of the records - (1) Except with the leave of the Tribunal, the following shall not form part of the records of the case:-

(a) reply statement filed after the expiry of the time granted for the purpose;

(b) rejoinder filed without the leave of the Court or filed after the expiry of the time granted; and

(c) additional pleadings filed without the leave of the Court or filed after the expiry of the time granted.

(2) The papers referred under sub-rule (1) which are treated as not forming part of the record shall be notified on the notice board of the Registry requiring the party to take them back within four weeks from the date of such notice, failing which the Registry shall take steps to destroy the same.

33. Incorporation of amendments, filing of additional reply, etc - (1) When the Tribunal allows an application for amendment of the pleadings or for addition of parties, the same shall be carried out in red ink indicating the date of the order and duly signed by the party or legal practitioner, who has obtained the order, within the time granted for the purpose by the order or if no time is granted, within 14 days from the date of the order.

(2) If, the Bench or the Tribunal has directed furnishing of a fresh copy incorporating the amendments or addition of parties, the same shall be filed in triplicate and after serving a copy of the amended pleading on the other party within the time granted by the Court or if no time is granted, within 14 days from the date of the order.

(3) In case of default under sub-rules (1) and (2), the Registry shall place the matter before the Bench for orders.

PROCEEDINGS BEFORE REGISTRAR'S COURT

34. Matters to be listed before the Registrar's Court - Once an application or appeal is admitted and notice ordered, the same shall be posted before the Registrar for completion of pleadings.

35. Cause list for Registrar's Court - Cases required to be dealt with by the Registrar shall be notified in a separate daily cause list and the cases so notified shall be taken up in the Registrar's Court in the serial order as indicated in the cause list.

36. Recording of proceedings. - After hearing the parties or their legal practitioners and on perusing the record, the Registrar may record his decisions in the column "Notes of the Registry" in the order sheet and put his initials with date.

37. Inclusion of cases in the ready list when pleadings are complete. - If the pleadings are complete or if the case is deemed to be ready for hearing, the Registrar shall record the same in the order sheet and order for inclusion in the list of cases ready for final hearing.

PREPARATION OF READY LIST, WARNING LIST, DAILY CAUSE LIST AND POSTING OF CASES

38. Maintenance of Ready list - The Judicial Branch of the Registry shall maintain separate registers in **Register No.V** for each category of cases, which are ready for hearing.

(2) The registers shall contain separate sections for each year and inclusion of cases in the registers shall be year-wise and in the order in which they become ready for hearing.

39. Preparation of Warning list - (1) The Registry shall prepare for each category of cases, a separate list called "Warning List" consisting of such number of cases as may be sufficient in the opinion of the Registrar, for being posted for hearing for a period of two weeks.

(2) Cases in the Warning List shall be arranged according to the year and number of registration and not on the basis of their serial number in the Ready List and oldest among the cases be included first followed by the next oldest and so on.

40. Publication of Warning list - (1) The Judicial Branch of the Registry shall publish the Warning list on the notice board of the Registry on the last working day previous to the 1st and 15th of every month.

(2) The total number of cases to be included in each Warning list as fixed by the Registrar shall, as far as possible, be maintained by adding at the bottom of the list, such number of cases as are required to make good the deficiency, having regard to the number of cases transferred to the Daily Cause List.

(3) From the Warning list so published, sufficient number of cases shall be taken for inclusion in the Daily Cause List in the order in which they appear in the Warning list, subject to the orders of the Chairperson or Vice-Chairperson or the Bench.

41. Preparation and Publication of Daily Cause List - (1) The Judicial Branch of the Registry shall prepare and display on the notice board of the Registry before 5.30 p.m. on each working day the cause list for the next working day and where practicable on the internet.

(2) Subject to the directions of the Chairperson or Vice-Chairperson or the Bench, listing of cases in the Daily Cause List shall be in the following order: -

(i) cases for "Pronouncement of Orders",
(ii) cases for "being spoken to",
(iii) cases for "Admission",
(iv) cases for "Order and directions",
(v) contempt applications,
(vi) part-heard cases, latest part-heard having precedence,
(vii) cases posted as per directions of the Court,
(viii) cases from the "Warning list",

(2) The title of the Daily Cause List shall consist of the name of the Bench, the day, date and time of the Bench sitting, Tribunal Hall number and the quorum indicating the names of the Chairperson or Vice-Chairperson or Member constituting the Bench with abbreviations in bracket - (J) for Judicial and, (A) for Administrative.

(3) In the Warning list and in the Daily Cause List, the following particulars shall be shown against the number of each case: -

(i) names of legal practitioners appearing on both sides, giving in brackets the rank of the parties whom they represent;

IndiaCode