

**Bill No. XXVIII of 2006**

THE ADMINISTRATIVE TRIBUNALS (AMENDMENT) BILL, 2006

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BILL

*further to amend the Administrative Tribunals Act, 1985.*

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

- |             |   |                          |
|-------------|---|--------------------------|
|             | <b>1.</b> This Act may be called the Administrative Tribunals (Amendment) Act, 2006.  | Short title.             |
| 13 of 1985. | <b>2.</b> In the Administrative Tribunals Act, 1985 (hereinafter referred to as the principal Act), in section 3, after clause (g), the following clause shall be inserted, namely:—<br><br>‘(ga) “High Court” means the High Court within whose territorial jurisdiction, the Tribunal concerned is situated.’ | Amendment of section 3.  |
|             | <b>3.</b> Section 17 of the principal Act shall be omitted.   | Omission of section 17.  |
|             | <b>4.</b> In section 27 of the principal Act, the brackets and words “(including a High Court)” shall be omitted.   | Amendment of section 27. |

Insertion of  
new Chapters  
IVA and IVB.

5. After Chapter IV of the principal Act, the following Chapters shall be inserted, namely:—

“CHAPTER IVA

ABOLITION OF TRIBUNALS

Power of  
Central  
Government  
to abolish  
Tribunals.

27A. (1) If the Central Government is of the opinion that the continued existence of the Central Administrative Tribunal or any of its Benches is not necessary, it may, by notification, abolish the Tribunal or any of its Benches.

(2) The Central Government may abolish, by notification,—

(a) an Administrative Tribunal established for a State under sub-section (2) of section 4 after the receipt of a proposal from the State in this behalf;

(b) a Joint Administrative Tribunal established under sub-section (3) of section 4 on receipt of an agreement entered into by the concerned States for the abolition of such Administrative Tribunal:

Provided that the abolition of the Tamil Nadu Administrative Tribunal and the transfer of the pending cases and records of the said Tribunal to the High Court of Judicature at Madras, by the notification of the Government of India in the Ministry of Personnel, Public Grievances and Pensions No. G.S.R. 71(E), dated the 17th February, 2006 issued under sub-section (2) of section 4, shall be deemed to have been done under this section as if the provisions of this section were in force on and from the 17th day of February, 2006.

(3) If a proposal or agreement under clause (a) or clause (b) of sub-section (2), is forwarded to the Central Government, the concerned State shall also forward along with it a proposal for the transfer and disposal of cases pending before any State Administrative Tribunal or any Joint Administrative Tribunal in consultation with the concerned High Court.

(4) The Central Government may provide in the notification under sub-section (1) or sub-section (2) for the transfer and disposal of the cases pending before the Tribunal or any of its Benches immediately before its abolition.

Vacation of  
office by  
Chairman,  
Vice-Chairman  
or Member of  
the Tribunal.

27B. (1) On the abolition of a Tribunal, the persons holding the office as the Chairman, Vice-Chairman or a Member of the Tribunal immediately before the abolition of such Tribunal, shall vacate their respective offices.

(2) The Chairman, Vice-Chairman and a Member of the Tribunal, after vacation of their offices under sub-section (1), shall not be entitled to claim any compensation for the premature termination of their term or any contract of service:

**Provided that the Chairman of the Tribunal and every other person appointed as Vice-Chairman and Member, who were in service of the appropriate Government and took voluntary retirement from the service of the appropriate Government to join the Tribunal as Chairman, Vice-Chairman or Member, as the case may be, shall be entitled to draw his pay from the appropriate Government from the date of abolition of such Tribunal till his attaining the age of superannuation or till the completion of his tenure in that Tribunal, whichever is earlier.**

Vacation of  
office by staff  
of Tribunal.

27C. (1) On the abolition of the Tribunal or any of its Benches, the officers and other employees,—

(a) who were appointed on deputation basis to the Tribunal immediately before the abolition of the Tribunal, shall, on such abolition, stand reverted to their parent cadre; and

(b) who were appointed on regular basis to the Tribunal immediately before the abolition of the Tribunal, shall, on such abolition, become the officers and

employees of the appropriate Government with the same rights and privileges as to pension, gratuity and other like matters as would have been admissible to him if the rights in relation to such Tribunal had not been transferred to, and vested in, the appropriate Government and shall continue to do so unless and until his employment in the appropriate Government is duly terminated or until his remuneration, terms and conditions of employment are duly altered by that Government.

(2) The officers and other employees not falling under clauses (a) and (b) of sub-section (1), on such abolition, shall vacate their respective offices and no such officer and other employee shall be entitled to claim any compensation for the premature termination of their term of office or of any contract of service.

14 of 1947.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or employee, employed in the Tribunal, to the appropriate Government shall not entitle such officer or employee any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) Where the Tribunal has established provident fund, superannuation, welfare or other fund for the benefit of the officers and other employees employed in the Tribunal, the monies relatable to the officers and other employees whose services have been transferred by or under this Act to the appropriate Government shall, out of the monies standing, on the abolition of the Tribunal, to the credit of such provident fund, superannuation, welfare or other fund, stand so transferred and shall be dealt with by the said Government in such manner as may be prescribed.

## CHAPTER IVB

### APPEAL TO HIGH COURT

27D. (1) Any person aggrieved by any decision or order of the Tribunal may file an appeal to the High Court. Appeal to High Court.

(2) Every appeal under this section shall be preferred within a period of sixty days from the date of communication of the decision or order of the Tribunal to the person aggrieved by the said decision or order:

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the period of sixty days.

(3) Every appeal under sub-section (1) shall be heard by a Bench of two Judges of the High Court.”.

6. In section 35 of the principal Act, in sub-section (2), after clause (e), the following clause shall be inserted, namely:— Amendment of section 35.

“(ea) the manner in which the amount of provident fund, superannuation, welfare or other fund credited, shall be dealt with by the Central Government;”.

7. In section 36 of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely:— Amendment of section 36.

“(ba) the manner in which the amount of provident fund, superannuation, welfare or other fund credited, shall be dealt with by the appropriate Government;”.

## STATEMENT OF OBJECTS AND REASONS

In pursuance of article 323A of the Constitution, the Administrative Tribunals Act, 1985 was enacted. The said Act envisaged the setting up of administrative tribunals to deal with service related matters and sought to exclude the jurisdiction of all courts including the High Courts in such matters. The functions and powers including the power to punish for contempt were assigned to the tribunals. The Apex Court has since held that writ jurisdiction of the High Courts under articles 226 and 227 shall continue to be with High Courts and administrative tribunals shall be subject to such jurisdiction of the High Courts. The High Courts as court of record already have the power to punish for contempt. As the Tribunals have become subject to the jurisdiction of the High Courts, it is no longer necessary to retain the power to punish for contempt with them.

2. Further, the Central Administrative Tribunal was established with its Principal Bench at New Delhi and 16 other Benches located in various parts of the country to adjudicate service related disputes of the Central Government employees and other employees specifically covered by it. In addition, Administrative Tribunals in eight States were established by the Central Government on the request of the respective State Government to adjudicate service related disputes of State Government employees. Three of the eight State Governments *viz.* Government of Himachal Pradesh, Madhya Pradesh and Tamil Nadu, have requested the Central Government for abolition of the State Administrative Tribunals.

3. Since the Administrative Tribunals Act, 1985 does not contain any specific provisions for abolition of a Tribunal, there is a need for amendment of the Act in order to provide for an enabling provision for abolition of the Tribunal and also for transfer of pending cases to some other authority after the Tribunal is abolished. The amendment is considered necessary for taking care of the service conditions of its functionaries, *viz.*, Chairman, Vice-Chairman and Members and officers and other Staff of the Tribunal in case the Tribunal is abolished. Further, an amendment to the Act is also required to provide for appeal against the orders of an Administrative Tribunal to the respective High Courts to bring the Act in line with the judgment of Supreme Court in the case of *L. Chandra Kumar* delivered in March, 1997.

4. The Bill seeks to achieve the above objects.

SURESH PACHOURI.

NEW DELHI;

*The 16th March, 2006.*

## FINANCIAL MEMORANDUM

All the expenses towards the Central Administrative Tribunal are borne by the Central Government and in respect of State Administrative Tribunal the same are borne by the respective State Government. At present, there is no proposal under consideration of the Central Government for abolition of Central Administrative Tribunal or any of its Benches. Therefore, even if the Bill is enacted, no expenditure from the Consolidated Fund of India is likely to be incurred immediately on such enactment. However, the Bill involves financial consequences in future when the subject matter of the Bill will be invoked for abolition of the State Administrative Tribunals. In case the State Administrative Tribunal is abolished, the expenditure by way of pay and allowances in respect of Chairman, Vice-Chairman and Members of such Tribunal will have to be borne by the respective State Governments and no expenditure from Consolidated Fund of India is likely to be incurred on this account.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 6 and 7 of the Bill empower the appropriate Government to make rules in regard to the manner in which the amount of provident fund, superannuation, welfare and other fund credited shall be dealt with by the appropriate Government under new section 27C for vacation of office by the staff of the Tribunal.

The matters in respect of which rules may be made are matters of procedure and detail. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE ADMINISTRATIVE TRIBUNALS ACT, 1985

(13 OF 1985)

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

\* \* \* \* \*

70 of 1971.

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

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

(b) the references to the Advocate General in section 15 of the said Act shall be construed,—

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

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

\* \* \* \* \*

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

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**35. (1)** \* \* \* \* \* Power of the 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:—

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

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RAJYA SABHA

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further to amend the Administrative Tribunals Act, 1985.

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*(Shri Suresh Pachouri, Minister of State for Personnel, Public Grievances and Pensions  
and Parliamentary Affairs)*

MGIPMRND—6530RS(S3)—17-03-2006.