

Bill No. 50 of 2012

THE ADMINISTRATIVE TRIBUNALS (AMENDMENT) BILL, 2012

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further to amend the Administrative Tribunals Act, 1985.

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

1. (1) This Act may be called the Administrative Tribunals (Amendment) Act, 2012.

Short title and commencement.

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

13 of 1985.

2. In section 6 of the Administrative Tribunals Act, 1985 (hereinafter referred to as the principal Act),—

Amendment of section 6.

10 (a) in sub-section (1), for the words "a Judge of a High Court", the words "a Judge of the Supreme Court or the Chief Justice of a High Court" shall be substituted;

(b) for sub-sections (3), (4) and (5), the following sub-sections shall respectively be substituted, namely:—

"(3) The Chairman and every other Member of the Central Administrative Tribunal shall be appointed by the President after consultation with the Chief Justice of India. 5

(4) The Chairman and every other Member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Chief Justice of India and the Governor of the concerned State.

(5) Subject to the terms of the agreement between the participating State Governments published under sub-section (3) of section 4, the Chairman and every other Member of a Joint Administrative Tribunal shall be appointed by the President after consultation with the Chief Justice of India and the Governors of the concerned States." 10

Amendment of section 8. 3. In section 8 of the principal Act, sub-section (3) shall be omitted.

Substitution of new section for section 10. 4. For section 10 of the principal Act, the following section shall be substituted, 15
namely:—

Salaries, allowances and other terms and conditions of service of Chairman and Members. "10. **The salaries and allowances payable to and other terms and conditions of service including pension, gratuity and other retirement benefits of,—**

(a) **the Chairman shall be the same as applicable to a Judge of the Supreme Court or the Chief Justice of a High Court, as the case may be, depending the office actually held by him; and** 20

(b) **a Member shall be the same as applicable to a Judge of the High Court:**

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairman or Member shall be varied to his disadvantage after his appointment: 25

Provided further that where a serving Government officer is appointed as a Member, he shall be deemed to have retired from the service to which he belonged on the date on which he assumed the charge of the Member but his subsequent service as Member shall, at his option, be reckoned as a post-retirement re-employment counting for pension and other retirement benefits in the service to which he belonged." 30

Amendment of section 10A. 5. In section 10A of the principal Act, in the proviso, for the word and figure "section 8", the words and figures "sections 6 and 8" shall be substituted. 35

Amendment of section 25. 6. In section 25 of the principal Act, for the words "the Chairman may transfer any case", the words "the Chairman or a Member authorised by him in this behalf may transfer any case" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

In pursuance of article 323A of the Constitution, the Administrative Tribunals Act, 1985 (the Act) was enacted. Administrative Tribunals have been set up under the Act for adjudication or trial of disputes and complaints with respect to recruitment and conditions of service of persons appointed to Public Services and posts in connection with the affairs of the Union or any State or any local or other authority within the territory of India or under the control of Government of India or in corporations owned or controlled by the Government.

2. Under existing provisions contained in section 6 of the Act, a person shall not be qualified for appointment as Chairman unless he is or has been, a Judge of a High Court. The Chairman and every other Member of the Central Administrative Tribunal are appointed after consultation with the Chief Justice of India by the President. The Chairman and every other Member of the Administrative Tribunals for a State or of Joint Administrative Tribunal are appointed by the President after consultation with the Governor of the concerned State. Section 8 of the Act provides that the condition of the service of the Chairman is same as applicable to the Judges of the High Courts.

3. To make Judges of the Supreme Court eligible for appointment as Chairman, in the Central Administrative Tribunal, the State Administrative Tribunal and any Joint Administrative Tribunal and to bring uniformity in appointment of the Chairman and other Members of these Tribunals, following amendments are proposed to be made in the Act, namely:—

(a) to amend sub-section (1) of section 6 of the Act so as to provide that a person shall not be qualified for the appointment as Chairman unless he is, or has been, a judge of the Supreme Court or the Chief Justice of the High Court;

(b) to substitute sub-sections (3) to (5) of section 6 of the Act with new sub-sections so as to provide for consultation by the President with the Chief Justice of India and the Governor of the respective States, in the case of State Administrative Tribunal and Joint Administrative Tribunals in addition to consultation by the President with the Chief Justice of India in the case of appointment of Chairman and every other Member of the Central Administrative Tribunal;

(c) to substitute section 10 of the Act so as to provide that the salary and allowances payable to and the other terms and conditions of service including pensions, gratuity and other retirement benefits, for the Chairman shall be the same as are applicable to the Judge of the Supreme Court or the Chief Justice of the High Court and Members shall be eligible for such benefits as are applicable to a Judge of the High Court;

(d) to amend section 25 of the Act so as to confer power upon a Member authorised by the Chairman to transfer any case pending before one bench to any other bench for disposal in addition to the Chairman having such power;

(e) to make consequential amendments in the Act.

4. The Bill seeks to achieve the above objects.

NEW DELHI;
The 9th April, 2012.

V. NARAYANASAMY

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. The Bill involves financial implications as and when new Chairmen are appointed on expiry of the term of office of the existing Chairmen since such new Chairmen will be entitled to the service conditions as admissible to a sitting Judge of the Supreme Court or Chief Justice of a High Court, as the case may be. The additional expenditure in this regard would be rupees 1.56 lakh per annum towards salary and sumptuary allowance and rupees 1 lakh for appointment (approximately) per Chairman.

ANNEXURE

EXTRACTS FROM THE ADMINISTRATIVE TRIBUNALS ACT, 1985

(13 OF 1985)

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6. (1) A person shall not be qualified for appointment as the Chairman unless he is, or has been, a Judge of a High Court:

Qualifications for appointment as Chairman, Vice-Chairman and other members.

Provided that a person appointed as Vice-Chairman before the commencement of this Act shall be qualified for appointment as Chairman if such person has held the office of the Vice-Chairman at least for a period of two years.

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(3) The Chairman and every other Member of the Central Administrative Tribunal shall be appointed after consultation with the Chief Justice of India by the President.

(4) Subject to the provision of sub-section (3), the Chairman and every other member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Governor of the concerned State.

(5) The Chairman and every other Member of a Joint Administrative Tribunal shall, subject to the provisions of sub-section (3) and subject to the terms of the agreement between the participating State Governments published under sub-section (3) of section 4 of the principal Act, be appointed by the President after consultation with the Governors of the concerned States.

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

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8. (1) * * * * *

Term of office.

(3) The conditions of service of Chairman and Members shall be the same as applicable to Judges of the High Court.

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

Salaries and allowances and other terms and conditions of service of Chairman, Vice-Chairman and other Members.

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

Provided further that where a serving Government officer is appointed as a Member, he shall be deemed to have retired from the service to which he belonged on the date on which he assumed the charge of the Member but his subsequent service as Member shall, at his option, be reckoned as a post-retirement re-employment counting for pension and other retirement benefits in the service to which he belonged.

10A. The Chairman, Vice-Chairman and Member of a Tribunal appointed before the commencement of the Administrative Tribunals (Amendment) Act, 2006 shall continue to be governed by the provisions of the Act, and the rules made thereunder as if the Administrative Tribunals (Amendment) Act, 2006 had not come into force:

Saving terms and conditions of service of Vice-Chairman.

1 of 2007.

Provided that, however, such Chairman and the Members appointed before the coming into force of Administrative Tribunals (Amendment) Act, 2006, may on

1 of 2007.

completion of their term or attainment of the age of sixty-five or sixty-two years, as the case may be, whichever is earlier may, if eligible in terms of section 8 as amended by the Administrative Tribunals (Amendment) Act, 2006 be considered for a fresh appointment in accordance with the selection procedure laid down for such appointments subject to the condition that the total term in office of the Chairman shall not exceed five years and that of the Members, ten years.

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

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

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further to amend the Administrative Tribunals Act, 1985.

*(Shri V. Narayanasamy, Minister of State for
Personnel, Public Grievances and Pensions)*