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REORGANIZATION OF QUASI-JUDICIAL BODIES



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INTRODUCTION

The Finance Act, 2017 (the "Act") came into effect from April 1, 2017 after the President granted assent to the Bill on March 31, 2017. The Act has made several structural changes, including making Aadhaar numbers mandatory for filing tax returns, allowing companies to make bigger, anonymous political donations and capping single cash transaction at Rs 200,000. But the most sweeping changes were merger of eight powerful and autonomous administrative tribunals with other tribunals. In addition, the Act has empowered the Central Government to determine the qualifications, term of office, salaries and allowances, resignation, removal and other terms of service of quasi-judicial officials.

COMMENCEMENT OF THE AMENDMENTS:

The amendments to certain acts to provide for the merger of tribunals and service conditions of the members of such tribunals or other authorities are introduced in Part XIV of Chapter VI of the Act. Pursuant to Section 156 of the Act, the Central Government has notified 'May 26, 2017' as the date in the Official Gazette on which the Finance Act, 2017 amendments relating to merger of tribunals and other authorities shall come into force. Accordingly, Section 158 to Section 189 of the Act are notified.

HIGHLIGHTS OF PART XIV OF CHAPTER VI

The key changes introduced by the Act under PART XIV of Chapter VI are summarized below.

(I) Mergers and Restructuring of Tribunals:

Eight appellate tribunals created through various laws will now be restructured and merged and their functions will be allotted to others mentioned below:



SR. NO.	TRIBUNAL BEING REPLACED	TRIBUNAL TO TAKE OVER FUNCTIONS
1	The Employees Provident Fund Appellate Tribunal	Industrial Tribunal (under the Industrial Disputes Act, 1947)
2	The Copyright Board	Intellectual Property Appellate Board (under the Trade Marks Act, 1999)
3	The Railways Rates Tribunal	Railway Claims Tribunal (under the Railway Claims Tribunal Act, 1987)
4	The Appellate Tribunal For Foreign Exchange	Appellate Tribunal (under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976)
5	The National Highways Tribunal	Airport Appellate Tribunal (under the Airport Authority of India Act, 1994)
6	The Airports Economic Regulatory Authority Appellate Tribunal	Telecom Dispute Settlement And Appellate Tribunal (under the TRAI Act,1997)
7	Cyber Appellate Tribunal	Telecom Dispute Settlement And Appellate Tribunal (under the TRAI Act,1997)
8	Competition Appellate Tribunal	National Company Law Appellate Tribunal (under the Companies Act, 2013)

(II) Service Conditions of Quasi-Judicial Officials of such Tribunals

Section 184 of the Act has empowered the Central Government to make rules to provide for qualifications, appointments, tenure, salaries and allowances, resignation, removal and any other conditions of service of the Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or as the case may be, other Authorities.

Pursuant to Section 184 of the Act, the Central Government has recently notified the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017 (the "Rules") through Notification bearing No. G.S.R. No. 514 (E) dated June 1, 2017.

The Rules will not be applicable to those currently serving on these tribunals. It further provides that the term of office for these members will not exceed 5 (five) years and such members will be eligible for reappointment. The age of retirement has also been amended to:

- (i) 70 (seventy) years for Chairpersons, Chairmen or Presidents; and
- (ii) 67 (sixty-seven) years for Vice-Chairpersons, Vice-Chairman, Vice-Presidents and Presiding Officers.



The Government has obtained the authority to determine service conditions of quasi-judicial officials in respect of following Tribunal/Appellate Tribunal/Board/Authority:

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| 1. Industrial Tribunal constituted by the Central Government; | 10 Airport Appellate Tribunal; |
| 2. Income-Tax Appellate Tribunal; | 11 Telecom Disputes Settlement and Appellate Tribunal; |
| 3. Customs, Excise and Service Tax Appellate Tribunal; | 12 Appellate Board (<i>Constituted under The Trade Marks Act, 1999</i>); |
| 4. Appellate Tribunal (constituted under The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976); | 13 National Company Law Appellate Tribunal; |
| 5. Central Administrative Tribunal; | 14 Authority for Advance Ruling; |
| 6. Railway Claims Tribunal; | 15 Film Certification Appellate Tribunal; |
| 7. Securities Appellate Tribunal; | 16 National Consumer Disputes Redressal Commission; |
| 8. Debts Recovery Tribunal; | 17 Appellate Tribunal for Electricity; |
| 9. Debts Recovery Appellate Tribunal; | 18 Armed Forces Tribunal; |
| | 19 National Green Tribunal. |

(III) Acts to be Amended

Before the Act came into effect, the acts that set up a tribunal also contained provisions of qualifications for appointment, term of office, and removal of its members. However, the Act has introduced the amendments to such legislations and pursuant to which the following acts would be modified accordingly:

1. The Industrial Disputes Act, 1947(Section 158);
 2. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952(Section 159);
 3. The Copyright Act, 1957 (Section 160);
 4. The Trade Marks Act, 1999 (Section 161);
 5. The Railway Claims Tribunal Act, 1987 (Section 162);
 6. The Railways Act, 1989 (Section 163);
 7. The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (Section 164);
 8. The Foreign Exchange Management Act, 1999(Section 165);
 9. The Airports Authority of India Act, 1994 (Section 166);
 10. The Control of National Highways (Land and Traffic) Act, 2002 (Section 167);
 11. The Telecom Regulatory Authority Of India Act, 1997 (Section 168);
 12. The Information Technology Act, 2000 (Section 169);
 13. The Airports Economic Regulatory Authority Of India Act, 2008 (Section 170);
 14. The Competition Act, 2002 (Section 171);
 15. The Companies Act, 2013 (Section 172);
 16. The Cinematograph Act, 1952 (Section 173);
 17. The Income- Tax Act, 1961(Section 174);
 18. The Customs Act, 1962 (Section 175);
 19. The Administrative Tribunals Act, 1985 (Section 176);
 20. The Consumer Protection Act, 1986 (Section 177);
 21. The Securities and Exchange Board of India Act, 1992 (Section 178);
 22. The Recovery of Debts Due To Banks and Financial Institutions Act, 1993 (Section 179);
 23. The Electricity Act, 2003 (Section 180);
 24. The Armed Forces Tribunal Act, 2007 (Section 181);
 25. The National Green Tribunal Act, 2010 (Section 182).
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CONCLUSION



India has number of tribunals that were created to secure the speedy disposal of service matters, revenue matters and certain other matters of special importance in the context of the socio-economic development and progress. These tribunals have played an exceedingly important function in the current system of judiciary. On the one hand, the Government's decision of merging powerful administrative tribunals and assuming powers to appoint and remove their chiefs, will definitely lower administrative costs and bring in more uniformity in terms of service and efficiency. However, rationalizing tribunals may undermine the authority and independence of these quasi-judicial bodies. Since there will be an increase of the Government's role, there could be a risk of erosion of the boundary between the executive and judiciary. Further the Act gives unchecked power to the Government, entitling them to essentially install political appointees to govern such tribunals, arguably eroding the principle of the separation of powers between the executive, legislative and judiciary. This amendment could therefore, potentially compromise the independence of such quasi-judicial tribunals.

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