

**IN THE SUPREME COURT OF INDIA**

**CIVIL ORIGINAL JURISDICTION**

**WRIT PETITION (CIVIL) NO.                 OF 2017**

**Revenue Bar Association                                 ...     PETITIONER**

**VERSUS**

**Union of India & Others                                 ...     RESPONDENTS**

**WITH**

**I.A. No.     OF     2017                                 An application seeking *ex-parte*  
Interim Stay**

**PAPERBOOK**

**(KINDLY SEE INSIDE FOR INDEX)**

**NIKHIL NAYYAR**

**ADVOCATE FOR THE PETITIONER**

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## LISTING PROFORMA

## SECTION X

- Central Act (Title) : Constitution of India
- Provision : Articles 14, 21, 50, 110& 323B
- Central Rule (Title) : Rules of Procedure and Conduct of Business in Lok Sabha
- Rule No(s) : Rules 80 & 219
- State Act (Title) : NA
- Provision(s) : NA
- State Rule (Title) : NA
- Rule No(s) : NA
- Impugned Interim Order : NA
- Impugned Final Order : NA
- High Court : NA
- Names of Judges : NA
- Tribunal/Authority : NA

- 
1. **Nature of Matter** : Civil  Criminal
- 2.
- (a) Petitioner No. 1 : Revenue Bar Association
- (b) Email ID : NA
- (c) Mobile Number : NA
- 3.
- (a) Respondent No. 1 : Union of India
- (b) Email ID : NA
- (c) Mobile Number : NA
- 4.
- (a) Main category Classification : 18
- (b) Sub Classification : 1807
5. **Not to be listed before** : NA

6. **Similar/Pending Matter** :  
(a) Madras Bar Assn. v. Union of India & Others, **W.P (C) No. 267 of 2012**  
(b) Social Action for Forest & Environment v. Union of India, **W.P.(C) No. 561 of 2017**
7. **Criminal Matters** : NA
8. **Land Acquisition Matters** : NA
9. **Tax Matters** : NA
10. **Special Category** : NA
- |                          |                |                          |           |                          |             |
|--------------------------|----------------|--------------------------|-----------|--------------------------|-------------|
| <input type="checkbox"/> | Senior Citizen | <input type="checkbox"/> | SC/ST     | <input type="checkbox"/> | Woman/Child |
| <input type="checkbox"/> | Disabled       | <input type="checkbox"/> | Legal Aid | <input type="checkbox"/> | In custody  |
11. **Vehicle Number** : NA  
(in case of Motor Accident Claim matters)
12. **Decided cases with citation** :

Date : 25.08.2017

**ADVOCATE ON RECORD**

Name : Nikhil Nayyar  
Code : 1312  
E-mail : n.nayyar21@gmail.com

## **SYNOPSIS**

Revenue Bar Association, the Petitioner herein, is a society formed in the year 1963 and registered under the Societies' Registration Act, 1860. The present Writ Petition seeks to challenge the constitutional validity of **PART XIV** of the Finance Act, 2017 and the 'Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017' (**'Tribunal Rules'**) framed by the Central Government.

In one stroke, **PART XIV** of the Finance Act repealed substantive provisions relating to administration of 26 Tribunals established and codified under 26 diverse Central Laws. As a substitute, by virtue of Section 184, the Central Government has been given the powers to provide rules in this regard. Pursuant thereto, the Tribunal Rules have laid down the eligibility criteria, selection process, removal, tenure and other service conditions of Members (i.e., Chairpersons, Vice-Chairpersons, Technical/Specialist Members and Judicial Members) of 19 Tribunals. The substantive provisions under their parent legislations, if not expressly repealed under **PART XIV**, have been declared *non-est* to the extent their inconsistency with Tribunal Rules.

The Finance Act, 2017 was introduced and enacted as a 'Money Bill' through the special legislative procedure set out under Article 109 of the Constitution. At the time of consideration of the Finance Bill, a Member of the Lower House questioned the validity to include various provisions (including the insertion of **PART XIV**) as a 'Money Bill'. The Hon'ble Speaker, however, ruled that the impugned provisions were 'incidental' to financial proposals of the Central Government. On 22.03.2017, the Finance Bill was passed by the Lok Sabha and transmitted to Rajya Sabha for its recommendations. On 31.03.2017, the Finance Bill received assent from the President. Thereafter, **PART XIV** and the Tribunal Rules were brought into force on 26.05.2017 and 01.06.2017, respectively.

At the outset, it is submitted that the passage of the Finance Act in the form of a 'Money Bill' is entirely inappropriate and derogates substantive provisions of the Constitution. PART XIV deals with appointment, selection, eligibility and other service conditions of Members of Scheduled Tribunals, which is primarily concerned with administration of justice, jurisdiction and powers of courts and access to justice. Whilst Article 110 does not *per se* bar the inclusion of non-fiscal proposals in a Finance Bill, such a proposal must (i) be an 'incidental' ancillary provision (ii) to enable the State in creating or obviating fiscal charge or regulating fiscal activities such as borrowings, withdrawal or such other financial obligations. Mere incidental burden on the Consolidated Fund is insufficient to qualify proposed legislation as a 'Money Bill'. In the instant case, the provisions affecting administration of tribunals can hardly qualify as a pure fiscal measure, or enacted purely on financial considerations. As a consequence, the approval of the Rajya Sabha on ordinary legislative subjects stipulated under Articles 107 and 108 has been brought to a naught. Such colourable exercise of powers to bypass the Upper House, is impressible and amounts to fraud on the Constitution.

Notwithstanding the above, the Finance Act completely undermines the stature, efficacy and judicial independence of the Scheduled Tribunals. Section 184 has delegated the powers to prescribe service conditions (such eligibility, tenure, appointment process etc.) to the Central Government. Whereas, each of the said service conditions were expressly codified under the parent statute of the Tribunals. The delegation of critical aspects affecting independence of Tribunals is *per se* arbitrary and an affront to basic features of the Constitution (i.e., independence of judiciary and separation of powers). That apart, the Central Government wields wide discretion to prescribe/alter the service conditions, as the provisions under PART XIV fails to lay down discernible legislative policy or specify reasonable parameters for exercise of delegated powers.



The Tribunal Rules are a testament to the unbridled and unguided powers conferred under Section 184. More egregiously, the Tribunal Rules blatantly contravene binding principles laid down by this Hon'ble Court in a series of decisions to ensure independence of tribunals and proper administration of justice. Some of the glaring aberrations are enumerated below:

- (a) **Eligibility Criteria:** This Hon'ble Court has unequivocally held that a Chairperson or Presiding Officer of Judicial Tribunals is equivalent to the Chief Justice of High Courts. 13 out of 19 Tribunals fails to satisfy the said criteria. The qualifications prescribed therein allows a person merely 'qualified' to be a Judge of this Hon'ble Court or High Court are eligible for appointment as the Chairperson/President. Furthermore, 14 out of 19 Tribunals allow a Technical/Specialist Member without any expertise in law to be appointed as the Chairperson/President. 5 out of 19 Tribunals permit ILS Officers to be appointed as 'Judicial Members'.
- (b) **Selection Process:** This Hon'ble Court has categorically stated that (a) composition of Selection Committee must give primacy to Judiciary, (b) must be headed by the Chief Justice or his nominee; and (c) the Chief Justice or his nominee should have a casting vote. However, the Selection Committees prescribed by the Central Government falls short of the said stipulation on all counts.
- (c) **Removal:** The Rules allow the Central Government to initiate an enquiry merely on written complaint without even the requirement for consultation or concurrence from the Chief Justice or his nominee. The composition of the Committee entrusted to conduct an enquiry has not been specified. Furthermore, the Central Government can remove the Member of the Tribunal based on the recommendation of the Committee,

and without any requirement to consult or obtain concurrence of the Chief Justice or his nominee (with the exception to NCLAT). The removal process creates a master-servant relationship between the Central Government and Members of the Tribunals.

- (d) **Nodal Ministry:** This Hon'ble Court in **L. Chandra Kumar v. Union of India** (1997) 3 SCC 261 noted that **“The administrative support for all Tribunals should be from the Ministry of Law & Justice. Neither the Tribunals nor its members shall seek or be provided with facilities from the respective sponsoring or parent Ministries or concerned Department.”** In over two decades, the Central Government has not taken any steps in this regard. The Tribunal Rules have shown blatant disregard towards unifying administration of Tribunals.

Thus, the present Petition is being filed to seek declaratory reliefs - *inter alia* - for violation of Articles 14, 19, 21, 50, 107, 109, 110 and 323B of the Constitution and failure to preserve and protect the basic features of the Constitution. In a nutshell, the grounds urged are as under:

- I. THAT the insertion of PART XIV in the form of a 'Money Bill' suffers from procedural illegality, inasmuch as the subject matter of provisions are beyond the scope of Article 110. The deliberate design to exclude the Rajya Sabha, by adopting special procedure under Article 109, smacks of constitutional impropriety and amounts to fraud on the Constitution.
- II. THAT the substantive provisions of the Finance Act affecting the stature, efficacy and independence of Judicial Tribunals is violative of Articles 14 and 50. The basic features of a Tribunal - such as eligibility, selection process and other service conditions - are essential legislative subjects. The delegation of such critical

aspects undermines independence of Tribunals which is arbitrary and an affront to basic features of the Constitution. Moreover, the impugned provisions fail to specify discernible legislative policy, hence suffers from the vice of excessive delegation..

- III. THAT the Tribunal Rules are manifestly arbitrary and irrational. The Tribunal Rules blatantly contravene binding principles laid down by this Hon'ble Court to ensure independence of tribunals and proper administration of justice. The wide powers of the Central Government casts huge shadow on impartiality and fairness in their adjudication process. Moreover, the Tribunal Rules have failed to prescribe uniform standards *inter se* amongst various Scheduled Tribunals without valid justification.

## **LIST OF DATES**

- 1963** Revenue Bar Association, the Petitioner herein, was registered under the Societies' Registration Act, 1860 (bearing CERTIFICATE OF REGISTRATION NO. 13 OF 1963) in Madras. The society is represented through its President and comprises of advocates practicing in various commercial and revenue laws across the country before Courts, Tribunals and other *quasi-judicial fora*.
- 22.08.2009** The 18<sup>th</sup> Law Commission of India, in their Report No. 232 on 'Retirement Age of Chairpersons & Members of Tribunals: Need for Uniformity', observed that there is an **“absence of clear-cut guidelines for prescribing retirement age of Chairpersons or Members of various Tribunals in the country, different Ministries of the Government adopt different yardsticks.”** To this end, the Law Commission recommended that **“There**

**is an imperative need to fix the age of retirement of Chairpersons and Members of various Tribunals up to the age of 70 and 65, respectively.”**

**20.04.2012** This Hon’ble Court in **Rajiv Garg v. Union of India** W.P.(C) No. 120 of 2012 issued notice to the Attorney General for India to consider “**whether different conditions of engagement/service could be prescribed for the Chairperson/ President of different Tribunals/Commissions constituted under different Acts of Parliament.**”

**24.07.2012** Immediately thereafter, this Hon’ble Court was pleased to issue notice to the Union of India in W.P.(C) No. 267 of 2012 filed by Madras Bar Association which has sought appropriate directions against Respondent No. 1 to take over the administration of all Tribunals created by Parliament and to streamline their functioning. Furthermore, the Petition sought appropriate directions to direct Respondent No. 1 to carry out a ‘Judicial Impact Assessment’ on all Tribunals created by the Parliament.

**19.02.2014** To this end, the Union of India introduced the ‘Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014’ in the Rajya Sabha to provide “**uniform conditions of service of the Chairman and Members**” in respect of twenty-six (26) Tribunals, Appellate Tribunals and other authorities established under various Central Laws. However, the Bill was entirely inadequate and failed to provide robust standards to ensure functional autonomy and adjudicatory independence of the

Tribunals. The Hon'ble Chairman of Rajya Sabha referred the Tribunals Bill to the Department-related Standing Committee for its consideration.

**26.02.2015** The Standing Committee, after lengthy deliberations, submitted their report before both the Houses. In their 74<sup>th</sup> Report, the Committee emphasized the need to have tenured appointments and uniform service conditions for independent and impartial adjudication. Furthermore, the Standing Committee criticized the present practice of appointing retired Judges and retired bureaucrats as members of Tribunals. The Standing Committee also opined that the age for retirement should be uniform for all Members, and also objected to the Minister-in-charge discharging as the Leave Sanctioning Authority. As on date, the Tribunals Bill is still pending.

**10.03.2015** The Madras High Court in **Shamnad Basheer v. Union of India & Others**, W.P. No. 1256 of 2011 struck down various provisions of the Trade Marks Act, 1999 pertaining to qualifications of the Vice-Chairman, Judicial Members and Technical Members of the Intellectual Property Appellate Board ('**IPAB**'). Pertinently, the composition of the Search-cum-Selection Committee comprising of members of the Executive was struck down as being an affront to the basic structure of the constitution.

**27.07.2015** This Hon'ble Court upheld the findings of the High Court in **Shamnad Basheer** (supra) and held that there is no "legal and valid ground for interference."

**18.01.2016** This Hon'ble Court, in W.P.(C) No. 267 of 2012, directed Respondent No. 1 to reconsider parts of the Tribunals Bill in light of observations made by this Hon'ble Court in **Union of India v. R. Gandhi** (supra) and submit a report. However, it appears that no action was reported to this Hon'ble Court thus far.

**01.02.2017** The Finance Bill, 2017 was introduced as a 'Money Bill' in the Lower House with the recommendation of the President of India in accordance with Clauses (1) and (3) of Article 117. At the time of introduction, the Finance Bill comprised of one hundred and fifty (150) Clauses along with seven (7) Schedules "to give effect to the financial proposals of the Central Government for the financial year 2017-2018." The Bill largely contained proposals which sought to amend, add and modify laws dealing with taxation (i.e., direct, indirect and service taxes) and other fiscal aspects. However, PART VII of the Finance Bill (renumbered as PART VIII in the Finance Act) sought to expand the jurisdiction of Securities Appellate Tribunal [established under the Securities and Exchange Board of India Act, 1992] to hear appeals against orders passed by the Insurance Regulatory and Development Authority and the Pension Fund Regulatory and Development Authority. In addition, the Finance Bill contained a proposal to replace and substitute the existing provisions on qualifications, selection procedure, tenure and removal of Presiding Officer and Members of the Securities Tribunal.

**21.03.2017** The Lower House took up the Finance Bill for discussion. On the eve of discussion, the Union Finance Minister proposed an Amendment to insert

PARTXI (renumbered as PARTXIV in the Finance Act) containing 34 new Clauses and two (2) Schedules to the Finance Bill. Two Hon'ble Members of the House – namely, Sh. N. K. Premachandran and Prof. Sugata Roy - raised a Point of Order to question the legality of enacting non-fiscal subjects in the form of a 'Money Bill'. It was also pointed out that Clause (i) of Rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha (**'Lok Sabha Business Rules'**) prohibited amendments that were neither relevant to the subject matter nor within the scope of the Bill under consideration. The Hon'ble Speaker, in exercise of special jurisdiction under Clause (3) of Article 110, stated that there was no specific bar on inclusion of non-taxation proposal in 'Money Bills' and accordingly ruled that the provisions of the Finance Bill were incidental to financial proposals of the Central Government.

**22.03.2017** The Lower House adopted the Finance Bill along with an Amendment to insert PARTXI (renumbered as PARTXIV in the Finance Act). Pertinently, the House suspended the operation of Clause (i) of Rule 80 of Lok Sabha Business Rules to permit unconnected matters to be included in the Finance Bill. Thereafter, the Finance Bill was transmitted to the Upper House for their recommendations as per Clause (2) of Article 109.

**29.03.2017** The Council returned the Finance Bill to the Lower House with certain recommendations.

- 30.03.2017** The Lower House rejected the recommendations. Resultantly, the Finance Bill was deemed to have been passed by both the Houses by virtue of Article 109.
- 31.03.2017** The Finance Bill received assent from the President of India.
- 26.05.2017** As per Section 156, the Department of Revenue (i.e., Respondent No. 2 herein) notified 26<sup>th</sup> Day of May, 2017 as the appointed date to bring the provisions of PART XIV into effect. PART XIV of the Finance Act repealed substantive provisions relating to administration of 26 Tribunals setup and contained under 26 diverse Central Laws.
- 01.06.2017** Thereafter, the Respondent No. 2 notified the Tribunals Rules and brought them into force with immediate effect. In terms of Section 184, the Tribunal Rules lay down (a) eligibility criteria, (a) process of selection, (c) resignation and removal, (d) salaries and emoluments, (e) term and tenure; and (f) other service conditions such as leave and allowances to Members of the Scheduled Tribunals.
- 24.08.2017** The present Writ Petition raises several important questions of law which involve interpretation of the Constitution. The Statement of Object and Reasons of the Finance Act has no bearing or relation to the impugned provisions affecting administration of tribunals. Moreover, these sweeping changes were brought into effect in the form of a 'Money Bill' in complete derogation of substantive provisions of the Constitution, and with a deliberate design to undermine the Rajya Sabha. Notwithstanding the



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above, the substantive provisions of the Finance Act undermine the judicial independence and autonomy of Scheduled Tribunals from the Executive. The basic features of a Tribunal - such as eligibility, selection process and other service conditions – have not only been delegated to the Executive, but more egregiously, the Parliament has failed to lay down discernible legislative policy. The Impugned Rules enacted pursuant thereto is a testament to the unbridled and unguided powers, which have not only disregarded the binding principles of this Hon'ble Court, but are manifestly arbitrary and undermine judicial independence with impunity. Hence, the present Writ Petition is being filed seeking declaratory reliefs to challenge the constitutional validity of the Finance Act and the Tribunal Rules.

**IN THE SUPREME COURT OF INDIA**

CIVIL ORIGINAL JURISDICTION  
(Under Article 32 of the Constitution of India)

**WRIT PETITION (CIVIL) NO.        OF 2017**

**IN THE MATTER OF**

**REVENUE BAR ASSOCIATION**

Through Sh. Arvind Pandian (President)  
New No. 115 (First Floor),  
Luz Church Road, Mylapore,  
Chennai-600 004

**PETITIONER**

**VERSUS**

**1. Union of India**

Ministry of Law and Justice,  
Through Law Secretary,  
4<sup>th</sup>Floor, A Wing,  
Rajendra Prasad Road  
Shastri Bhavan,  
New Delhi- 110 001

**RESPONDENT NO. 1**

**2. Union of India**

Ministry of Finance,  
Department of Revenue,  
Through Joint Secretary,  
North Block,  
New Delhi – 110 001

**RESPONDENT NO. 2**

**3. Lok Sabha Secretariat**

Through Secretary-General,  
18, Parliament House,  
New Delhi – 110 001

**RESPONDENT NO. 3**

**A PETITION UNDER ARTICLE 32 OF THE CONSTITUTION  
OF INDIA**

To,

The Hon'ble Chief Justice of India  
and His Companion Judges of  
the Hon'ble Supreme Court of India

The Humble Petition of the  
Petitioner above named

**MOST RESPECTFULLY SHOWETH**

1. The present Petition under Article 32 of the Constitution of India seeks to challenge the constitutional validity of PART XIV of the Finance Act, 2017 [ACT No. 7 of 2017] titled '**Amendments to Certain Acts to Provide for Merger of Tribunals & Other Authorities and Conditions of Service of Chairpersons, Members, etc.,**' and also the validity of the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017 ('**Tribunal Rules**') made by the Central Government by virtue of powers delegated under Section 184 thereunder.
2. Revenue Bar Association, the Petitioner herein, is a society formed in the year 1963 and registered under the Societies' Registration Act, 1860 (bearing CERTIFICATE OF REGISTRATION NO. 13 OF 1963) in Madras. The society is represented through its President and comprises of advocates practicing in various commercial and revenue laws across the country before Courts, Tribunals and other *quasi-judicial fora*. The Petitioner is prejudicially aggrieved by the provisions of Finance Act which have had an adverse impact on the independence of judicial tribunals and administration and access to justice. True Copy of the Certificate of Registration, dated 30.07.1984, is annexed herewith as **ANNEXURE P-1 (Page No.66)**.
3. The Finance Bill, 2017 was introduced as a 'Money Bill' in the House of People ('**The Lower House**' or '**Lok Sabha**') with the recommendation of the President of India in accordance with Clauses (1) and (3) of Article 117. At the time when it was introduced, on 01.02.2017, the Finance Bill contained one hundred and fifty (150) Clauses along with seven (7) Schedules "**to give effect to the financial proposals of the Central Government for the financial year 2017-2018.**".

4. The Lower House, on 21.03.2017 and 22.03.2017, deliberated and passed the Finance Bill along with 29 Government Amendments. Incidentally, the PART XI of the Finance Bill (or PART XIV of the Finance Act), impugned herein, was introduced as an Amendment on 21.03.2017, to insert 34 new Clauses and two (2) Schedules which amended 26 Central Laws. Thereafter, the Finance Bill was transmitted to the Council of States (**'The Upper House'** or **'Rajya Sabha'**) for their recommendations as per Clause (2) of Article 109.
  
5. The Council, on 29.03.2017, returned the Bill with certain recommendations. On 30.03.2017, the Lower House rejected the recommendations, and resultantly, the Finance Bill was deemed to have been passed by both Houses. The President gave his assent to the Finance Bill on 31.03.2017, and was published in the GAZETTE OF INDIA for general information. True Copy of PART XIV of the Finance Act, 2017, published in the GAZETTE OF INDIA on 31.03.2017, is annexed herewith as **ANNEXURE P-2 (Page Nos.67 to 106)**.
  
6. As per Section 156 therein, the Department of Revenue (i.e., Respondent No. 2 herein) notified 26<sup>th</sup> Day of May, 2017 as the appointed date to bring the provisions of PART XIV into effect. In one stroke, PART XIV of the Finance Act amended substantive provisions contained in twenty-six (26) diverse Central Laws (**'Scheduled Acts'**) pertaining to administration, jurisdiction and functioning of twenty-six (26) Tribunals (**'Scheduled Tribunals'**) setup thereunder. The enormity of this legislative exercise includes:
  - (a) The abolition of eight (8) Tribunals setup under Scheduled Acts specified in Column (2) of the NINTH SCHEDULE, and convergence/transfer of their jurisdiction, powers and

authority to Seven (7) other existing Tribunals established under Scheduled Acts specified in Column (3).

- (b) The repeal of substantive provisions relating to eligibility criteria, selection process, removal, tenure and other service conditions of Members (i.e., Chairpersons, Vice-Chairpersons, Technical/Specialist Members and Judicial Members) of Scheduled Tribunals contained in Scheduled Acts specified in the EIGHTH SCHEDULE. As a substitute, by virtue of Section 184, the Scheduled Acts were mechanically amended to confer powers upon the Central Government to prescribe rules in this regard. The substantive provisions under their parent legislations, if not expressly repealed under PART XIV, have been declared *non-est* to the extent their inconsistency with Tribunal Rules.
- (c) The termination of services of Members (including Chairperson or President, Vice-Chairman and other Members) currently administering Scheduled Tribunals under the NINTH SCHEDULE, along with a maximum of three (3) months' pay and allowances as compensation towards premature termination.
7. Thereafter, the Department of Revenue (i.e., Respondent No. 2) notified the 'Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017' ('**Tribunal Rules**') on 01.06.2017 and was brought into force with immediate effect. In terms of Section 184, the Tribunal Rules has laid down (a) eligibility criteria; (a) selection process; (c) resignation and removal; (d) salaries and emoluments; (e) term and tenure; and (f) other service conditions such as leave and allowances

applicable for Members of the Scheduled Tribunals. True Copy of the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017, published in the GAZETTE OF INDIA on 01.06.2017, is annexed herewith as **ANNEXURE P-3 (Page Nos. 107 to 171)**.

8. At the outset, it is stated that the passage of the Finance Act in the form of a 'Money Bill' is inappropriate and derogates substantive procedure laid down under the Constitution. The exclusion of the Upper House, on ordinary legislative subjects, smacks of constitutional impropriety and is a fraud on the Constitution. Notwithstanding the above, the Finance Act completely undermines the stature, efficacy and judicial independence of not just the Scheduled Tribunals. Furthermore, the impugned provisions give wide powers for the Central Government to include any other Tribunal at any point in the future merely by a notification. The Finance Act has delegated essential legislative functions affecting independence and administration of Tribunals, and more egregiously failed to specify any discernible legislative policy. The Tribunal Rules are a testament to the unbridled and unguided powers conferred under Section 184, which are manifestly arbitrary and irrational. Furthermore, the Tribunal Rules blatantly contravene binding principles laid down by this Hon'ble Court issued to ensure independence of tribunals and proper administration of justice.
9. In a nutshell, the Finance Act and Tribunal Rules have incapacitated Scheduled Tribunals to function independently and discharge judicial duties fairly and impartially without Executive influences. Thus, the present Petition is being filed to seek declaratory reliefs - *inter alia* - for violation of Articles 14, 19, 21, 50, 107, 110, 117 and 323B of the Constitution and take steps

to preserve and protect the basic features of the Constitution embodied therein.

10. In the above premises, the present Writ Petition raises several important questions of law involving interpretation of the Constitution, and particularly this Hon'ble Court has to examine:
  - (a) Whether a 'Money Bill' comprising of non-fiscal legislative subjects (falling entirely outside the scope of Article 110) can be struck down for substantive procedural illegality and colourable exercise of legislative powers in adopting the special procedure prescribed under Article 109?
  - (b) Whether the ruling of the Speaker of the Lower House on the validity of Finance Act as a 'Money Bill' - in exercise of special jurisdiction under Clause (3) of Article 110 - can be interfered through the process of judicial review for procedural illegality and grave constitutional impropriety?
  - (c) Whether the powers to lay down qualifications, selection process, removal and other service conditions – which directly affect the independence and administration of Scheduled Tribunals and the doctrine of separation of powers - can be delegated/abdicated to the rule-making power of the Central Government?
  - (d) Whether the qualifications, selection process, removal and other service conditions contained in the Tribunal Rules are liable to be struck down for manifest arbitrariness and infringement of 'basic structure of the Constitution' as held by this Hon'ble Court in **Madras Bar Association v. Union of India & Others** (2014) 10 SCC 1?

11. Some of the issues raised in the instant Petition are pending consideration before the Constitutional Bench of this Hon'ble Court in **Madras Bar Association v. Union of India & Others** [W.P.(C) No. 267 of 2012]. As a matter of fact, this Hon'ble Court is currently examining the constitutional validity of certain provisions of the Finance Act and Rules in **Social Action for Forest & Environment v. Union of India** [W.P.(C) No. 561 of 2017]. True Copy of the Order passed by this Hon'ble Court in W.P.(C) No. 561 of 2017, on 28.07.2017, is annexed herewith as **ANNEXURE P-4 (Page No. 172)**.

#### I. DESCRIPTION OF PARTIES

12. Revenue Bar Association, the Petitioner herein, is a society formed in the year 1963 and registered under the Societies' Registration Act, 1860 (bearing CERTIFICATE OF REGISTRATION NO. 13 OF 1963) in Madras. The society is represented through its President and comprises of advocates practicing in various commercial and revenue laws across the country before Courts, Tribunals and other *quasi-judicial fora*. The Petitioner is prejudicially aggrieved by the provisions of Finance Act which have had an adverse impact on the independence of judicial tribunals and administration and access to justice.
13. Respondent No. 1 is the Union of India represented through the Law Secretary of the Ministry of Law & Justice. As per the Government of India (Allocation of Business) Rules ('**Allocation of Business**'), the Department of Legal Affairs under the Ministry is responsible for representing the Union of India in all legal matters before this Hon'ble Court and other subordinate courts. In addition, the Department of Legal Affairs is responsible for administration of two of the Scheduled Tribunals; namely, the Income-Tax Appellate Tribunal ('**ITAT**') and Appellate Tribunal for Foreign Exchange ('**ATFE**'). The



Department of Justice under the Ministry is responsible for matters affecting administration of justice. Furthermore, this Hon'ble Court in **L. Chandra Kumar v. Union of India** (1997) 3 SCC 261 and in subsequent decisions directed the Union of India to unify administration of all Tribunals under the Ministry of Law & Justice.

14. Respondent No. 2 is the Department of Revenue under the Ministry of Finance and is represented through its Joint Secretary. Respondent No. 2 was responsible for various proposals introduced in the Finance Bill as well as framing and notification of Tribunal Rules. Although, the Allocation of Business contemplate limited responsibility over matters relating to Taxation (viz., Income Tax, Customs, Central Excise and Sales Tax), Narcotic Drugs, Money Laundering, Foreign Exchange and Smuggling. The Respondent No. 2 is responsible for administration of Customs Excise and Service Tax Appellate Tribunal ('CESTAT') and Appellate Tribunal under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 ('SAFEMA'). In respect of seventeen (17) other Scheduled Tribunals, on the other hand, the responsibility is vested under various Ministries or Departments administering the concerned parent statutes. Evidently, therefore, the promulgation of Tribunal Rules is *ex-facie* beyond the scope of work and jurisdiction allocated to Respondent No. 2.
15. Respondent No. 3 is the Lok Sabha Secretariat and is represented through the Secretary-General. The Hon'ble Speaker, in exercise of special jurisdiction under Clause (3) and (4) of Article 110 of the Constitution, has ruled and certified the Finance Bill (along with various Amendments) as a 'Money Bill'.

## II. BRIEF STATEMENT OF FACTS

16. In India, the impetus to create Tribunals stemmed from long delays and docket explosion of High Courts and other Courts. Over the years, the Legislature increasingly felt it appropriate to infuse ‘expert’ or ‘specialist’ in the field in adjudication of technical and specialized matters. In essence, the Tribunals were envisaged to replace and substitute the functions, jurisdiction and authority of the High Courts and other Civil Courts.
17. The Parliament derives its competent to create Tribunals and confer jurisdiction to resolve disputes in exercise of legislative powers contained in Article 246 read with Entries 77, 78, 79 and 95 of List I and Entry 46 of List III of Seventh Schedule. Significantly, moreover, the Constitution (Forty Second) Amendment, 1976 [**42<sup>nd</sup> Amendment**] inserted Articles 323A and 323B as under PART XIVA titled ‘Tribunals’ to establish specialised and institutional mechanism - for adjudication of various disputes, complaints and offences – in place of existing Courts and procedure. The 42<sup>nd</sup> Amendment also inserted Entry 11A under List III to enable the respective Legislatures to frame laws for **“administration of justice, constitution and organisation of all courts, except the Supreme Court and the High Courts.”**
18. It is noteworthy that the word ‘Tribunal’ has nowhere been defined either under the Constitution or an extant statute. Nevertheless, this Hon’ble Court has identified the unique attributes, purpose and functions of tribunals in various decisions. Notably, in **Kihoto Hollohon v Zachillhu & Others**, (1992) Supp 2 SCC 651 this Hon’ble Court observed that:

“Where there is a lis — an affirmation by one party and denial by another — and the dispute

necessarily involves a decision on the rights and obligations of the parties to it and the authority is called upon to decide it, there is an exercise of judicial power. **That authority is called a Tribunal, if it does not have all the trappings of a Court.**” (emphasis added)

19. A Constitution Bench of this Hon’ble Court in **S.P. Sampath Kumar v. Union of India & Others** (1987) 1 SCC 124, emphasised that a **“Tribunal should be a real substitute for the High Court – not only in form and *de jure* but in content and *de facto*. As was pointed out in *Minerva Mills*, the alternative arrangement has to be effective and efficient and capable of upholding the constitutional limitation.”**In subsequent decisions, this Hon’ble Court has stated that an alternative institutional mechanism is expected to possess judicial character and judicial independence of a High Court to inspire public confidence and provide impartial, effective and efficacious adjudication. To this end, the **Report of Arrears Committee** (1989-90) headed by (Retd.) Justice V. S. Malimath catalogued the essential characteristics of Judicial Tribunals in the following words[which has been quoted with approval in this Hon’ble Court in **L. Chandra Kumar** (supra)]:

**“Test for including High Court’s Jurisdiction:**

8.65 A Tribunal which substitutes the High Court as an alternative institutional mechanism for judicial review must be no less effective than the High Court. **Such a tribunal must inspire confidence and public esteem that it is a highly competent and expert mechanism with judicial approach and objectivity. What is needed in a tribunal, which is intended to supplant the High Court, is legal training and experience, and judicial acumen, equipment and approach.** When such a tribunal is composed of personnel drawn from the judiciary as well as from services

or from amongst experts in the field, any weightage in favour of the service members or expert members and value- discounting the judicial members would render the tribunal less effective and efficacious than the High Court. The Act setting up such a tribunal would itself have to be declared as void under such circumstances. The same would not at all be conducive to judicial independence and may even tend, directly or indirectly, to influence their decision making process, especially when the Government is a litigant in most of the cases coming before such tribunal. (See S.P. Sampath Kumar v. Union of India). ... Tribunals are not an end in themselves but a means to an end; even if the laudable objectives of speedy justice, uniformity of approach, predictability of decisions and specialist justice are to be achieved, the frame work of the tribunal intended to be set up to attain them must still retain its basic judicial character and inspire public confidence. Any scheme of decentralisation of administration of justice providing for an alternative institutional mechanism in substitution of the High Courts must pass the aforesaid test in order to be constitutionally valid.” (emphasis added)

20. In the past two decades, there has been an explosion of specialised tribunals in the areas of finance, labour and regulated sectors such as intellectual property, telecom, competition and environment. However, many of these Tribunals were set up indiscriminately in an *ad hoc* and piecemeal fashion, without effective judicial impact assessment. The abolition of Tribunals under the NINTH SCHEDULE is a testament to their ineffective and inferior adjudicatory mechanism. Be that as it may, the Scheduled Tribunals can be broadly categorized into three heads, based on their statute and forum to which their orders are appealable. They are enumerated as below:

**Category I: DIRECT APPEALS TO SUPREME COURT**

<b>S.No.</b>	<b>Tribunal</b>	<b>Jurisdiction</b>
1.	Central Excise and Service Tax Appellate Tribunal	Appellate
2.	Securities Appellate Tribunal	Appellate
3.	Airport Appellate Tribunal	Appellate
4.	Telecom Disputes and Settlement Appellate Tribunal	Both
5.	National Company Law Appellate Tribunal	Appellate
6.	National Consumer Dispute Redressal Commission	Both
7.	Appellate Tribunal for Electricity	Appellate
8.	Armed Forces Tribunal	Both
9.	National Green Tribunal	Both

**Category II: STATUTORY APPEALS & ORIGINAL JURISDICTION OF HIGH COURTS**

10.	Income Tax Appellate Tribunal	Appellate
11.	Railway Claims Tribunal	Original
12.	Industrial Disputes Tribunal	Original
13.	Appellate Tribunal for Forfeited Property	Both
14.	Central Administrative Tribunal	Both
15.	Debt Recovery Appellate Tribunal	Appellate
16.	Intellectual Property Appellate Board	Both
17.	Film Certification Appellate Tribunal	Appellate
18.	Authority for Advanced Ruling	Original

**Category III: SUPERVISORY JURISDICTION OF HIGH COURTS**

19. Debt Recovery Tribunal Original
21. As stated previously, the Ministry for Law & Justice, Respondent No. 1 herein, is responsible for matters affecting the administration of this Hon'ble Court and the High Courts. Although this Hon'ble Court has directed the Union of India to unify administration of Scheduled Tribunals under one agency, no steps have been taken until date. As a consequence, each Tribunal is governed/administered by different Ministry/ Department. The nodal agencies for each of the Scheduled Tribunal under EIGHT SCHEDULE is as below:

**Category I: DIRECT APPEALS TO SUPREME COURT**

<b>Tribunal</b>	<b>Jurisdiction</b>	<b>Nodal Ministry</b>
<b>CESTAT</b>	Customs Act, 1962	Dept. of Revenue (Fin.)
<b>SAT</b>	Securities and Exchange Board of India Act, 1992	Dept. Economic Affairs (Fin.)
<b>AAT</b>	Airport Authority of India Act, 1994	Civil Aviation
<b>TDSAT</b>	Telecom Regulatory Authority Act, 1997	Communications & IT
<b>NCLAT</b>	Companies Act, 2013	Corporate Affairs
<b>NCDRC</b>	Consumer Protection Act, 1986	Dept. of Consumer Affairs
<b>APTEL</b>	Electricity Act, 2003	Power
<b>AFT</b>	Armed Forces Act, 2007	Defence
<b>NGT</b>	National Green Tribunal Act, 2010	Environment & Forests

**Category II: STATUTORY APPEALS & ORIGINAL JURISDICTION  
OF HIGH COURTS**

<b>ITAT</b>	Income Tax Act, 1961	Law & Justice
<b>RCT</b>	Railway Claims Act, 1987	Railways
<b>IDT</b>	Industrial Disputes Act, 1947	Labour & Employment
<b>ATFP</b>	Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976	Dept. of Revenue (Fin.)
<b>CAT</b>	Administrative Tribunals Act, 1985	Law & Justice
<b>DRAT</b>	Recovery of Debts due to Banks and Financial Institutions Act, 1993	Dept. Financial Services (Fin.)
<b>IPAB</b>	Trade Marks Act, 1999	DIPP (Commerce & Industry)
<b>AAR</b>		Dept. of Revenue (Fin.)
<b>FCAT</b>	Cinematograph Act, 1952	Information & Broadcasting

**Category III: SUPERVISORY JURISDICTION OF HIGH COURTS**

<b>DRT</b>	Recovery of Debts due to Banks and Financial Institutions Act, 1993	Dept. Financial Services (Fin.)
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**A. ADMINISTRATION OF TRIBUNALS UNDER INDIAN CONSTITUTION**

22. While this Hon'ble Court approved divestment of judicial functions from the High Courts to Tribunals, it was held so on the precondition that the alternative adjudicatory mechanism is efficacious and equivalent to High Courts in all respects,

including the rank, status, qualifications and profile of persons presiding such bodies. This Hon'ble Court in **Sampath Kumar** (supra) – in connection with the appointment of members to the Central Administrative Tribunal ('CAT') – stated that the position of Chairperson of a Tribunal must be equivalent to that of Chief Justice of the High Court and the Vice-Chairperson and other Administrative Members as being equivalent to Judges of the High Court. It was further added that only a 'High Powered Committee' headed by sitting Judge of this Hon'ble Court (nominated by the Hon'ble Chief Justice of India) should be entrusted with selection and appointment of Chairperson and other Members of the Tribunal. [*See also S.P. Sampath Kumar v. Union of India & Others* (1987) Supp. SCC 734]

23. Thereafter, a Seven Bench of this Hon'ble Court in **L. Chandra Kumar** (supra) declared Articles 323A(2)(d) and 323B(3)(d) as unconstitutional, inasmuch as the exclusion of judicial review of this Hon'ble Court and High Courts under Articles 32, 226 and 227 were held to be inalienable and inviolable part of basic structure. Besides this, and most significantly, this Hon'ble Court upheld the dictum in **Sampath Kumar** (supra) and expressed grave concern over the lack of uniformity and coherent policy in administering of Tribunals. In pertinent part, this Hon'ble Court stated that:

“96. ...The situation at present is that different Tribunals constituted under different enactments are administered by different administrative departments of the Central and the State Governments. The problem is compounded by the fact that some Tribunals have been created pursuant to Central Legislations and some others have been created by State Legislations. **However, even in the case**



**of Tribunals created by Parliamentary legislations, there is no uniformity in administration. We are of the view that, until a wholly independent agency for the administration of all such Tribunals can be set-up, it is desirable that all such Tribunals should be, as far as possible, under a single nodal Ministry which will be in a position to oversee the working of these Tribunals.** For a number of reasons that Ministry should appropriately be the Ministry of Law. It would be open for the Ministry, in its turn, to appoint an independent supervisory body to oversee the working of the Tribunals. This will ensure that if the President or Chairperson of the Tribunal is for some reason unable to take sufficient interest in the working of the Tribunal, the entire system will not languish and the ultimate consumer of justice will not suffer. The creation of a single umbrella organisation will, in our view, remove many of the ills of the present system. If the need arises, there can be separate umbrella organisations at the Central and the State levels. Such a supervisory authority must try to ensure that the independence of the members of all such Tribunals is maintained. **To that extent, the procedure for the selection of the members of the Tribunals, the manner in which funds are allocated for the functioning of the Tribunals and all other consequential details will have to be clearly spelt out.**”

To this end, this Hon’ble Court directed the Union of India to converge administration of all Tribunals under one nodal agency. In pertinent part, this Hon’ble Court held that:

97. ...We, therefore, **recommend that the Union of India initiate action in this behalf and after consulting all concerned, place all these Tribunals under one single nodal department, preferably the Legal Department.**"  
(emphasis added)

24. Thirteen years later, the above concerns and directions were reiterated in **Union of India v. R. Gandhi**, (2010) 11 SCC 1, while examining the constitutional validity of the National Company Law Tribunal ('NCLT') established under the erstwhile Companies Act, 1957. More importantly, the Constitution Bench distilled various facets of a Tribunal necessary for just and fair dispensation of justice. While reiterating the necessity for independence of judicial tribunals, this Hon'ble Court noted that the "**the members of the tribunal should have the independence and security of tenure associated with judicial tribunals.**" Apart from functional autonomy, this Hon'ble Court underscored the sanctity of the selection in ensuring unbiased adjudication. To this end, this Hon'ble Court heavily castigated the Selection Committee which comprised of Secretary of the 'sponsoring department'. In unambiguous terms, this Hon'ble Court laid down elaborate parameters for ensuring judicial independence of Tribunals, of which the following are of extreme relevance:

"120. ...

- (i) Only Judges and advocates can be considered for appointment as judicial members of the Tribunal. Only High Court Judges, or Judges who have served in the rank of a District Judge for at least five years or a person who has practised as a lawyer for ten years can be considered for appointment as a judicial member. Persons who have held

a Group A or equivalent post under the Central or State Government with experience in the Indian Company Law Service (Legal Branch) and the Indian Legal Service (Grade I) cannot be considered for appointment as judicial members as provided in sub-sections (2)(c) and (d) of Section 10-FD. The expertise in Company Law Service or the Indian Legal Service will at best enable them to be considered for appointment as technical members.

- (ii) As NCLT takes over the functions of the High Court, the members should as nearly as possible have the same position and status as High Court Judges. This can be achieved, not by giving the salary and perks of a High Court Judge to the members, but by ensuring that persons who are as nearly equal in rank, experience or competence to High Court Judges are appointed as members. Therefore, only officers who are holding the ranks of Secretaries or Additional Secretaries alone can be considered for appointment as technical members of the National Company Law Tribunal. Clauses (c) and (d) of sub-section (2) and clauses (a) and (b) of sub-section (3) of Section 10-FD which provide for persons with 15 years experience in Group A post or persons holding the post of Joint Secretary or equivalent post in the Central or the State Government, being qualified for appointment as Members of Tribunal, are invalid.
- (iii) A “technical member” presupposes an experience in the field to which the Tribunal relates. A member of the Indian Company Law Service who has worked with Accounts Branch or officers in other departments who might have incidentally dealt with some aspect of company law cannot be considered

as “experts” qualified to be appointed as technical members. Therefore clauses (a) and (b) of sub-section (3) are not valid.

- (iv) ...
- (v) Persons having ability, integrity, standing and special knowledge and professional experience of not less than fifteen years in industrial finance, industrial management, industrial reconstruction, investment and accountancy, may however be considered as persons having expertise in rehabilitation/revival of companies and therefore, eligible for being considered for appointment as technical members.
- (vi) ...
- (vii) ...
- (viii) ... Instead of a five-member Selection Committee with the Chief Justice of India (or his nominee) as Chairperson and two Secretaries from the Ministry of Finance and Company Affairs and the Secretary in the Ministry of Labour and the Secretary in the Ministry of Law and Justice as members mentioned in Section 10-FX, the Selection Committee should broadly be on the following lines:
  - (a) Chief Justice of India or his nominee—  
Chairperson (with a casting vote);
  - (b) A Senior Judge of the Supreme Court or  
Chief Justice of High Court—Member;
  - (c) Secretary in the Ministry of Finance and  
Company Affairs—Member; and
  - (d) Secretary in the Ministry of Law and  
Justice—Member.
- (ix) The term of office of three years shall be changed to a term of seven or five years

subject to eligibility for appointment for one more term. This is because considerable time is required to achieve expertise in the field concerned. A term of three years is very short and by the time the members achieve the required knowledge, expertise and efficiency, one term will be over. Further the said term of three years with the retirement age of 65 years is perceived as having been tailor-made for persons who have retired or shortly to retire and encourages these Tribunals to be treated as post-retirement havens. If these Tribunals are to function effectively and efficiently they should be able to attract younger members who will have a reasonable period of service.

- (x) ...
- (xi) To maintain independence and security in service, sub-section (3) of Section 10-FJ and Section 10-FV should provide that suspension of the President/Chairman or member of a Tribunal can be only with the concurrence of the Chief Justice of India.
- (xii) The administrative support for all Tribunals should be from the Ministry of Law and Justice. Neither the Tribunals nor their members shall seek or be provided with facilities from the respective sponsoring or parent Ministries or Department concerned.”

25. Once again, a Constitution Bench of this Hon’ble Court in **Madras Bar Association v. Union of India & Others** (2014) 11 SCC 1 struck down the National Tax Tribunal Act, 2005 *inter alia* for failure to ensure adequate safeguards for ensuring judicial independence of their functionaries. In particular, the Hon’ble Court reiterated the dictum in **L. Chandra Kumar** (supra) pertaining to the composition of the Selection Committee. In pertinent part, this Hon’ble Court observed that:

“130. ... Herein the acknowledged position is that NTT has been constituted as a replacement of High Courts. NTT is, therefore, in the real sense a tribunal substituting the High Courts. **The manner of appointment of Chairperson/Members to NTT will have to be by the same procedure (or by a similar procedure) to that which is prevalent for appointment of the Judges of High Courts.** Insofar as the instant aspect of the matter is concerned, the above proposition was declared by this Court in *Union of India v. Madras Bar Assn.* [*Union of India v. Madras Bar Assn.*, (2010) 11 SCC 1], wherein it was held that the stature of the Members who would constitute the tribunal, would depend on the jurisdiction which was being transferred to the tribunal. **Accordingly, if the jurisdiction of the High Courts is being transferred to NTT, the stature of the Members of the tribunal had to be akin to that of the Judges of High Courts. So also the conditions of service of its Chairperson/Members, and the manner of their appointment and removal, including transfers. Including, the tenure of their appointments.**

132. Insofar as the validity of Section 8 of the NTT Act is concerned, it clearly emerges from a perusal thereof that a Chairperson/Member is appointed to NTT, in the first instance, for a duration of 5 years. Such Chairperson/Member is eligible for reappointment for a further period of 5 years. We have no hesitation to accept the submissions advanced at the hands of the learned counsel for the petitioners, that a provision for reappointment would itself have the effect of undermining the independence of the Chairperson/Members of NTT. Every Chairperson/Member appointed to NTT would be constrained to decide matters in a manner that would ensure his reappointment in terms of Section 8 of the NTT Act. His decisions may or may not be based on his independent

understanding. We are satisfied that the above provision would undermine the independence and fairness of the Chairperson and Members of NTT. Since NTT has been vested with jurisdiction which earlier lay with the High Courts, in all matters of appointment, and extension of tenure, must be shielded from executive involvement.” (**emphasis added**)

26. Following the series of precedents set out hereinabove, the Madras High Court in **Shamnad Basheer v. Union of India & Others**, W.P. No. 1256 of 2011 (dated 10.03.2015) struck down various provisions of the Trade Marks Act, 1999 pertaining to qualifications of the Vice-Chairman, Judicial Members and Technical Members of the Intellectual Property Appellate Board (**‘IPAB’**). Furthermore, the composition of the Search-cum-Selection Committee consisting of Secretaries/Add. Secretaries from the parent Ministry was struck down as being an affront to the basic features of the constitution. This Hon’ble Court upheld the findings of the High Court vide Order 27.07.2015 and held that there is no “legal and valid ground for interference.” True Copy of the Final Judgment in W.P. No. 1256 of 2011, dated 10.03.2015, passed by the High Court of Judicature at Madras is annexed herewith as **ANNEXURE P-5 (Page Nos. to )**. True Copy of the Order dated 27.07.2015 passed by this Hon’ble Court in S.L.P.(C) No. 18142 of 2015 is annexed herewith as **ANNEXURE P-6(Page Nos. 213 to 214)**.
27. Recently, on 14.05.2015, this Hon’ble in **Madras Bar Association v. Union of India & Others** (2015) 15 SCC 583 reiterated the principles laid down in **R. Gandhi** (supra) and struck down Sections 409(3)(a) and (e) and 411(3) of the Companies Act, 2013 pertaining to qualifications of Technical Members of NCLT and NCLAT, respectively. Furthermore, the Constitution Bench reiterated that the Selection Committee

should give primacy to representatives from the Judiciary, with the Chief Justice (or his nominee) having a 'casting vote' in case of any disagreement.

**B. RECENT DEVELOPMENTS**

28. The 18<sup>th</sup> Law Commission of India, in their Report No. 232 on 'Retirement Age of Chairpersons & Members of Tribunals: Need for Uniformity', submitted on 22.08.2009, observed that there is an **"absence of clear-cut guidelines for prescribing retirement age of Chairpersons or Members of various Tribunals in the country, different Ministries of the Government adopt different yardsticks."** To this end, the Law Commission recommended that **"There is an imperative need to fix the age of retirement of Chairpersons and Members of various Tribunals up to the age of 70 and 65, respectively."** True Copy of the Report No. 232 on 'Retirement Age of Chairpersons & Members of Tribunals: Need for Uniformity', submitted on 22.08.2009 by the 18<sup>th</sup> Law Commission of India is annexed herewith as **ANNEXURE P-7 (Page Nos. 215 to 222)**.
29. On 20.04.2012, this Hon'ble Court in **Rajiv Garg v. Union of India** W.P.(C) No. 120 of 2012 issued notice to the Attorney General for India to consider **"whether different conditions of engagement/service could be prescribed for the Chairperson/President of different Tribunals/Commissions constituted under different Acts of Parliament."** True Copy of the Order dated 20.04.2012 passed by this Hon'ble Court in W.P.(C) No. 120 of 2012 is annexed herewith as **ANNEXURE P-8 (Page Nos. 223 to 224)**.
30. Immediately thereafter, the Madras Bar Association filed W.P.(C) No. 267 of 2012 seeking appropriate directions from this Hon'ble Court to implement **R. Gandhi** (supra) and **L.**



**Chandra Kumar** (supra), in particular, sought a writ of *mandamus* to direct the Respondent No. 1 to take over the administration of all Tribunals created by Parliament and streamline their functioning. Furthermore, the Petition sought appropriate directions to direct Respondent No. 1 to carry out a ‘Judicial Impact Assessment’ on all Tribunals created by the Parliament. On 24.07.2012, this Hon’ble Court was pleased to issue notice the Respondents.

31. Consequently, the Government of India introduced the ‘**Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014**’ in the Rajya Sabha on 19.02.2014 to provide “uniform conditions of service of the Chairman and Members” in respect of twenty-six (26) Tribunals, Appellate Tribunals and other authorities established under various Central Laws. However, the Bill was entirely inadequate and failed to provide robust standards to ensure functional autonomy and adjudicatory independence of the Tribunals. True Copy of the ‘Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014’ is annexed herewith as **ANNEXURE P-9 (Page Nos. 225 to 240)**.
32. On 19.02.2014, the Hon’ble Chairman of Rajya Sabha referred the Tribunals Bill to the Department-related Standing Committee. The Committee submitted their 74<sup>th</sup> Report before both the Houses on 26.02.2015. In their 74<sup>th</sup> Report, the Committee emphasized the need to have tenured appointments and uniform service conditions for independent and impartial adjudication. Furthermore, the Standing Committee criticized the present practice of appointing retired Judges and retired bureaucrats as members of Tribunals. The Standing Committee also opined that the age for retirement should be uniform for all Members, and also objected to the Minister-in-charge

discharging as the Leave Sanctioning Authority. Besides these, the Parliamentary Committee noted that many Tribunals do not have adequate residential accommodation, proper office, infrastructure or inadequate supporting staff. As on date, the Tribunals Bill is still pending despite the passage of three (3) years. True Copy of the 74<sup>th</sup> Report of the Department-Related Parliamentary Standing Committee on the ‘Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014’, tabled on 26.02.2015 is annexed herewith as **ANNEXURE P-10 (Page Nos. 241 to 264)**.

33. In view of the above, this Hon’ble Court directed Respondent No. 1 to reconsider parts of the Tribunals Bill in light of observations made by this Hon’ble Court in **R. Gandhi** (supra) and submit a report. However, it appears that no action was reported to this Hon’ble Court thus far. True Copy of the Order dated 18.01.2016 passed by this Hon’ble Court in W.P.(C) No. 267 of 2012 is annexed herewith as **ANNEXURE P-11 (Page Nos. 265 to 266)**.

**C. FINANCE BILL, 2017**

34. The Finance Bill, 2017 was introduced as a ‘Money Bill’ in the Lower House with the recommendation of the President of India in accordance with Clauses (1) and (3) of Article 117. At the time of introduction, on 01.02.2017, the Finance Bill comprised of one hundred and fifty (150) Clauses along with seven (7) Schedules “**to give effect to the financial proposals of the Central Government for the financial year 2017-2018.**” The Bill largely contained proposals which sought to amend, add and modify laws dealing with taxation (i.e., direct, indirect and service taxes) and other fiscal aspects. However, PART VII of the Finance Bill (renumbered as PART VIII in the Finance Act) sought to expand the jurisdiction of SAT [established under the

Securities and Exchange Board of India Act, 1992] to hear appeals against orders passed by the Insurance Regulatory and Development Authority and the Pension Fund Regulatory and Development Authority. In addition, the Finance Bill further proposed to replace and substitute the existing provisions on qualifications, selection procedure, tenure and removal of Presiding Officer and Members of the SAT.

35. On 21.03.2017, the House took up the Finance Bill for discussion and came to be passed on the following day (i.e., 22.03.2017) along with 29 Government Amendments. On the eve of discussion - quite literally - the Union Finance Minister proposed an Amendment to insert PART XI (renumbered as PART XIV in the Finance Act) containing 34 new Clauses and two (2) Schedules to the Finance Bill.
36. Two Hon'ble Members of the House – namely, Sh. N. K. Premachandran and Prof. Sugata Roy - raised a Point of Order to question the legality of enacting non-fiscal subjects in the form of a 'Money Bill' through the Finance Bill. It was also pointed out that Clause (i) of Rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha (**'Lok Sabha Business Rules'**) prohibited amendments that were neither relevant to the subject matter nor within the scope of the Bill under consideration. The Hon'ble Speaker, in exercise of special jurisdiction under Clause (3) of Article 110, stated that there was no specific bar on inclusion of non-taxation proposal in 'Money Bills' and accordingly ruled that the provisions of the Finance Bill were incidental to financial proposals of the Central Government. In pertinent part, the ruling of the Hon'ble Speaker on 21.03.2017, as excerpted from LOKSABHADEBATES (Original Version) is reproduced below:

“Hon. Members would recall that during last year when similar objections were raised at the time of consideration of the Finance Bill, 2016, I had observed that as per rule 219, the primary object of a Finance Bill is to give effect to the financial proposals of the Government. There is no doubt about it. At the same time, this Rule does not rule out the possibility of inclusion of non-taxation proposals. Therefore, I have accepted this. The Finance Bill may contain nontaxation proposals also.

Now, another thing is, no doubt, every effort should be made to separate taxation measures from other matters. It should be done. But as has been very widely explained by the Finance Minister, I need not say the things again and again.

... (Interruptions)

HON. SPEAKER: What is it? I am giving my ruling.

So, incidental provisions can be made. That is why, keeping in view that rule 219 does not specifically bar inclusion of non-taxation proposals in a Finance Bill, I rule out the Point of Order.”

37. On 22.03.2017, the House adopted the Finance Bill along with an Amendment to insert PART XI (renumbered as PART XIV in the Finance Act). Pertinently, the House suspended the operation of Clause (i) of Rule 80 of Lok Sabha Business Rules to permit unconnected matters to be included in the Finance Bill. Thereafter, the Finance Bill was transmitted to the Upper House for their recommendations as per Clause (2) of Article 109. The Council, on 29.03.2017, returned the Bill with certain recommendations to the Lower House. On 30.03.2017, however,

the Lower House rejected the recommendations, and resultantly, the Finance Bill was deemed to be passed by both the Houses.

38. Incidentally, on 22.03.2017, the Members of House sought a reply from the Minister for Law & Justice regarding any existing proposal to converge 36 existing Tribunals into a total of 17. To this end, the Hon'ble Minister replied that:

“The issue of merger/convergence of various Tribunals has been under consideration of the Government for quite some time. The matter was discussed at various levels including Indian Law Institute (ILI) and exhaustive study was undertaken for better laws and better governance. ILI in its report considered 36 Tribunals and after assessing the purpose, function and scope of all these Tribunals, recommended that the identified 36 Tribunals can be reduced to 17.

2. To further examine the report of the ILI, an Inter-Ministerial Group (IMG) under the chairmanship of Law Secretary was constituted which examined the merger/convergence of 36 Tribunals on three parameters of their (i) functional requirements; (ii) qualifications, and (iii) workload. Thereafter, a phased-wise Action Plan for the proposed merger of the aforesaid Tribunals including few other Tribunals and authorities was prepared in consultation with all the concerned administrative Ministries/Departments.

3. However, during the study undertaken on Merger/ Conversion of Tribunals, the number of Tribunals have been reduced by 5. The Company Law Board, Board for Industrial and Financial Reconstruction and Appellate Authority for Industrial and Financial Reconstruction have been subsumed into National Company Law Tribunal and National Company Law Appellate Tribunal

and two Appellate Tribunals, namely the Appellate Tribunal for Prevention of Money Laundering”

True Copy of the Reply of the Ministry of Law & Justice, dated 22.03.2017, before the Lower House is annexed herewith as **ANNEXURE P-12 (Page Nos. 267 to 269)**.

39. Thereafter, the Respondent No. 2 notified the Tribunals Rules on 01.06.2017 and brought into force with immediate effect. In terms of Section 184, the Tribunal Rules have laid down the (a) eligibility criteria, (a) process of selection, (c) resignation and removal, (d) salaries and emoluments, (e) term and tenure; and (f) other service conditions such as leave and allowances to various all Members of the Scheduled Tribunals. While the Tribunal Rules prescribe uniform conditions in respect of (c) to (f) above across the board, however, different yardsticks have been adopted for eligibility and selection process of Members.

### **III. CAUSE OF ACTION**

40. The present Writ Petition raises several important questions of law which involve interpretation of the Constitution. The Statement of Object and ReasonsoftheFinance Act has no bearing or relevance for administration of tribunals howsoever. Thesesweeping changes were introduced entirely by surprise and without any deliberation with the relevant stakeholders. Be that as it may, the enactment of PART XIV in the form of a ‘Money Bill’ is entirely inappropriate and derogates substantive procedure laid down under the Constitution. The suppression of Upper House, on ordinary legislative subjects, smacks of constitutional impropriety and is a plain fraud on the Constitution. Notwithstanding the above, the substantive provisions of the Finance Act undermine the constitutional necessity to ensure judicial independence and autonomy of

Scheduled Tribunals from the Executive. The basic features of a Tribunal - such as eligibility, selection process and other service conditions – have not only been sub-delegated to the Executive, but egregiously failed to lay down discernible legislative policy for exercise of discretion. The Impugned Rules enacted pursuant thereto is a testament to the unbridled and unguided powers, which not only disregard the binding principles of this Hon'ble Court, but are manifestly arbitrary and undermine judicial independence with impunity.

#### **A. PROCEDURAL ILLEGALITY**

41. The PART XIV of the Finance Act is primarily concerned with appointment, selection, eligibility and other service conditions of Members of Scheduled Tribunals. These subjects are purely in the realm of (a) administration of justice; (b) jurisdiction and powers of courts; and (c) access to justice; and in pith and substance pertain to Articles 323A and 323B, Entry 95 of List I and Entries 11A and 46 of List III. The dominant effect of the impugned provisions is far from being a fiscal measure. It is entirely disingenuous to consider the provisions affecting administration of tribunals as a pure fiscal measure, or enacted purely on financial considerations.
42. First and foremost, the decision of the Hon'ble Speakerto treat provisions of the FinanceBill along with their Amendments as an 'incidental' legislative subject to matters specified under Clause (1) of Article 110 is *ex-facie* illegal and smacks of constitutional impropriety. Clause (1) of Article 110 reads as follows:

“(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains **only** provisions dealing with all or any of the following matters, namely

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;
- (c) the custody of the consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;
- (d) the appropriation of moneys out of the consolidated Fund of India;
- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or
- (g) **any matter incidental to any of the matters specified in sub clause (a) to (f)**” (emphasis added)

43. Whilst Article 110 does not *per se* bar the inclusion of non-fiscal proposals in a Finance Bill, such a proposal must be an incidental measure to enable other substantive provisions which have direct fiscal effect as specified in Sub-clauses (a) to (f). In other words, the inclusion of non-fiscal provision in Money Bill would be permissible if and only if (i) it is an ‘incidental’ ancillary



provision (ii) to enable the State in creating or obviating fiscal charge or regulating fiscal activities such as borrowings, withdrawal or such other financial obligations. Mere incidental burden on the Consolidated Fund is insufficient to qualify proposed legislation as a 'Money Bill'. PART XIV of the Finance Act, on the other hand, has repealed and replaced substantive provisions under the Scheduled Acts dealing with administration of Tribunals.

44. Furthermore, the adoption of special legislative procedure –under Article 109 – at whim of the Lower House has rendered the substantive procedure for Ordinary Bills under Articles 107 and 108 entirely redundant and nugatory. Consequently, the views and approval of the Upper House on legislative subjects other than fiscal measures have been muzzled and their role rendered futile. Such colourable exercise of powers to bypass the Upper House, is impermissible and constitutes fraud on the Constitution.
45. Worryingly moreover, a streak of non-fiscal/ordinary matters have been enacted as Money Bills in the recent past. The Insolvency and Bankruptcy Code, 2016 and the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 are a case in point. The situation is akin to abuse of ordinance making power, which has been deprecated by this Hon'ble Court in **Krishna Kumar Singh v. State of Bihar** (2017) 3 SCC 1 as a fraud on the Constitution. Likewise, the deliberate use of special procedure under Article 109 read with 110, either to circumvent the approval of Upper House or otherwise, is a fraud on the Constitution and an affront to supremacy of the Constitution.

## **B. DILUTION OF SEPARATION OF POWERS**

46. As stated earlier, the efficacy and independence of judicial tribunals has been recognized by this Hon'ble Court as an inviolable part of basic features of the Constitution. The eligibility criteria, selection process and service conditions of members of Tribunal is determinative of its independence and for impartial and effective discharge of judicial functions. By virtue of Sections 184 read with 183, however, the service conditions stipulated under Scheduled Acts have been nullified and delegated to the rule-making powers of the Central Government. Clause (1) of Section 184 reads as follows:

“(1) The Central Government may, by notification, make rules to provide for qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and 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 as specified in column (2) of the Eighth Schedule:”

47. It is submitted that Section 184 is a complete self-effacement of constitutional duty conferred upon the Parliament. Previously, each of the service conditions such eligibility, tenure, appointment process etc., have been expressly codified under each of the Scheduled Acts. The service conditions of Tribunals – being critical to safeguard the constitutional mandate – are non-delegable legislative subjects. In other words, the delegation of critical aspects affecting independence of Tribunals is arbitrary and an affront to basic features of the Constitution (i.e., independence of judiciary and separation of powers).

48. Moreover, Clause (1) of Article 323B imposes an obligation on the Parliament to frame a law in respect of creation of tribunals

for adjudication of disputes specified in Clause (2). Furthermore, the Sub-clause (f) under Clause (3) of Article 323B requires such law to provide for any “**supplemental, incidental and consequential**” measures necessary for the effective functioning, speedy disposal and enforcement of orders. The Article 323B, therefore, casts a positive duty on the Parliament to administer tribunals through a law, and by no other means.

49. At the very minimum, without prejudice to the above, it is incumbent upon the Parliament to provide sufficient legislative guidance or lay down definitive parameters for exercising the rule-making powers. In the instant case, the Finance Act fails to lay down any discernible criteria on the subject. For instance, the Finance Act does not even advert to selection process through the Search-cum-Selection Committees, and thereby allowing the Central Government to adopt any process/method for appointment.

### C. EFFICACY & JUDICIAL INDEPENDENCE

50. It is submitted that the Finance Act and the Tribunal Rules seriously affects the stature, efficacy and independence of the Tribunals. As noted previously, the Parliament has failed to laid precise parameters for framing rules on eligibility, selection and other service conditions. Resultantly, the Impugned Rules are not only arbitrary, irrational and vague, but also lack *inter se* uniformity various Scheduled Tribunals without valid justification. Some of the glaring violations are enumerated below:

- (a) **Eligibility Criteria:** RULE 3 read with Column (3) of the Schedule, which provides eligibility conditions for members of the Scheduled Tribunals, are thoroughly arbitrary, irrational and fails to secure its stature equivalent

to that of a High Court. The qualifications prescribed therein are starkly contrary to the binding directions issued by this Hon'ble Court in plethora decisions. For instance,

- i. **CHAIRPERSON/PRESIDENT:** In **Sampath Kumar** (supra), this Hon'ble Court unequivocally held that Chairperson or the Presiding Officer of a Judicial Tribunal is equivalent to Chief Justice of the High Courts. Thirteen (13) out of nineteen (19) Scheduled Tribunals – namely, ATFP, CAT, RCT, DRAT, AAT, TDSAT, IPAB, AAR, FCAT, NCDRC, APTEL, AFT and NGT -fails to satisfy the said criteria. The qualifications prescribed therein allows persons merely 'qualified' for appointment as a Judge of this Hon'ble Court or a High Court as the Chairperson/President, without having ever served as a Judge of High Court. Furthermore, 14 out of 19 Scheduled Tribunals – namely IDT, ITAT, CESTAT, CAT, RCT, DRT, AAT, TDSAT, IPAB, AAR, FCAT, NCDRC, APTEL and NGT - permit Technical/Specialist Member without any expertise in law to be considered for appointment as the Chairperson. More egregiously, RULE 10 allows the Central Government may appoint any member (including Specialist Member) to act as the Chairperson in case of any casual vacancy, contrary to **R. Gandhi** (supra).
- ii. **JUDICIAL MEMBERS:** In **R. Gandhi** (supra), this Hon'ble Court categorically held that only Judges and Advocates must be considered for appointment as Judicial Members. [**Pr. 120(i)**] The Madras High

Court in **Shamnad Basheer** (supra) struck down Section 85(3)(a) of the Trade Marks Act precisely on this count, holding that Indian Legal Service ('**ILS**') officers [Grade I] are ineligible for appointment as Judicial Members. In spite of the clear mandate, the Impugned Rules allow ILS Officers to be appointed as Judicial Members for ITAT, CESTAT, RCT, AAT and DRAT. Few other Tribunals permit 'Judicial Officers' with 10 years of experience to be considered for appointment, although the categories of officers eligible for such appointments has not been defined.

- iii. **TECHNICAL/SPECIALIST MEMBERS:** This Hon'ble Court in **R. Gandhi** (supra) held that direct relevant experience in the subject – and not merely incidental knowledge - is a precondition for persons to be considered for appointment as Technical Member. [**Pr. 120(iii)**] Furthermore, this Hon'ble Court held that bureaucrats may be considered for the post of Technical Members if and only if they have held the rank of Secretaries/Add. Secretaries. The Tribunals such as SAT and IPAB have not only appointed bureaucrats below the rank of Add. Secretary, but permit persons without no relevant expertise on the subject to be appointed.

- (b) **Selection Process:** RULE 4 read with Column (4) of the Schedule provide for appointment of members of the Scheduled Tribunals by the Central Government based on the recommendations of the Search-cum-Selection Committee setup for each Tribunal. However, the

composition of such Committees, and appointments to such committees, is manifestly arbitrary and violative of basic structure of the Constitution. This Hon'ble Court has categorically stated that (a) composition of Selection Committee must give primacy to Judiciary, (b) must be headed by the Chief Justice or his nominee; and (c) the Chief Justice or his nominee should have a casting vote. However, the Selection Committees prescribed by the Central Government falls short of the said stipulation on all counts. It is submitted that:

- i. The composition for every Selection Committee completely undermined the primacy of the Judiciary, inasmuch it fails to ensure equal representation alongside the Executive. The opinion of the Chief Justice or his nominee could be entirely disregarded.
- ii. Insofar as appointments to IDT and FCAT, the Judiciary is entirely excluded from the Selection Committees. In several others, such as ITAT, AATFP, CAT, RCT, SAT, TDSAT, IPAB, AAR, APTEL and NGT, the Selection Committees for Members does not include any representation from the Judiciary.
- iii. Few Scheduled Tribunals – such as IDT, CESTAT, SAT, AAR, - comprise of even members, however, the Impugned Rules do not contemplate the procedure for resolving conflicts.
- iv. The criteria and procedure for nomination of 'Experts' included as part of the Selection Committees, in the cases of IDT, ITAT, CAT, RCT, AAT, TDSAT, IPAB, FCAT, APTEL and NGT, has

not been specified howsoever. As a result, the Central Government has complete discretion to appoint 'Experts' of their choice.

- v. The Secretary of the relevant/parent Ministry acts as the convener of their respective Search-cum-Selection Committees, as per RULE 4(2). As a result, the meetings, deliberations, advertisements and other secretarial aspects of appointments are entirely under the control of the parent Ministry/Department.
- (c) **Tenure of Office:** Proviso to Clause (1) of Section 184 provides that the tenure of appointment shall not exceed five (5) years and permits reappointment. Furthermore, the Proviso has fixed an age limit of 70 and 67 years for Chairperson and Members, respectively. Pursuant thereto, RULE 9 read with Column (5) of the Schedule has prescribed a uniform tenure of 3 years for all Scheduled Tribunals with eligibility for reappointment. Once again, the Respondent has ignored the dictum of this Hon'ble Court in **R. Gandhi** (supra) wherein the term of office of 3 years was struck down. Similarly, this Hon'ble Court in **Madras Bar Assn.** (supra) observed that reappointment would undermine independence of judiciary, and struck down the corresponding provision under the National Tax Tribunal Act, 2005.
- (d) **Age:** RULE 9 read with Column (5) of the Schedule has prescribed retirement age for members of the Tribunals. However, the age limit is not uniform and without any rational basis. The Rule has ignored the 232<sup>nd</sup> Report of the Law Commission which recommended that "**There is an imperative need to fix the age of retirement of**

**Chairpersons and Members of various Tribunals up to the age of 70 and 65, respectively.”** On the other hand, the Standing Committee in their 74<sup>th</sup> Report opined that retirement age should be fixed at the age of 70 years for all members. Be that as it may, the Impugned Rules have failed to maintain uniformity across the Tribunals, without any valid justification.

- (e) **Removal:** RULES 7 and 8 which provide for the procedure for removal of members of the Tribunals is entirely illegal and undermines independence of Tribunals. The Rules allows the Central Government to initiate an enquiry merely on written complaint without the requirement for consultation or concurrence from the Chief Justice or his nominee. The composition of the Committee entrusted to conduct an enquiry has not been specified, and once again leaving wide and unguided discretion to the Central Government. Furthermore, the Central Government can remove the Member of the Tribunal based on the recommendation of the Committee, and without any necessity to consult or receive concurrence from the Chief Justice (with the exception to NCLAT). It is submitted the removal process creates a master-servant relationship between the Central Government and Members of the Tribunals, and casts a huge shadow on impartiality and fairness in their adjudication process.
- (f) **Salaries & Allowances:** RULES 11, 12, 13, 15, 16 and 18 provides for service conditions, such as salaries, leave pay, travel allowance (‘TA’), house rent allowance (‘HRA’) and other benefits admitted to Members of the Scheduled Tribunals. As it is evident, the emoluments and allowances conferred on the Members is equal to Group ‘A’ officers



of the Government of India of a corresponding status. However, this Hon'ble Court has repeatedly stated that the service conditions admitted to Members of such Tribunals should be equivalent or comparable to that of High Court Judges. The comparative chart below shows the sharp contrast between various service conditions prescribed under the Impugned Rules and for High Court Judges:

<b>Particular(s)</b>	<b>IMPUGNED RULES</b>	<b>HC JUDGES ACT, 1954</b>
<b>Leave Pay</b>	As per Rule 40 of Central Civil Services (Leave) Rules, 1972	All India Services (Leave) Rules, 1955
<b>TA</b>	Equivalent to of a Group 'A' officer of Central Government of corresponding status	HC Judges (TA) Rules, 1956
<b>Medical facilities</b>	Equivalent to of a Group 'A' officer of Central Government of corresponding status	Equivalent to Minister with a cabinet rank of the respective State
<b>HRA</b>	No accommodation. But HRA allowed similar to Group 'A' officer of Central Government of corresponding status	Entitled for official residence as per High Court Judges Rules, 1956
<b>Other conditions</b>	Equivalent to of a Group 'A' officer of Central Government of corresponding status	High Court Judges Act, 1954

- (g) **Leave Sanctioning Authority:** RULE 14 has conferred the responsibility on the Central Government to act the Leave

Sanctioning Authority of various members of the Tribunals. In view of Business Allocation Rules, the concerned in-charge/parent Ministry or Department would act as the Leave Sanctioning Authority. This creates a master-servant relationship between the concerned Ministry/Department and the Tribunal. It is instructive to note that the similar provision was included in the draft Tribunals Bill, and the Standing Committee several criticized the provision in the following words: “... **The Committee is not in agreement with the Clause 20 of Bill mainly for two reasons. Firstly, if leave sanctioning authority remains with the ministry-in-charge it would affect the independence of the Tribunals as the concerned Ministry is one of the parties to the disputes that come for adjudication before the Tribunal and secondly, it affects the status of Tribunals.**”

- (h) **Nodal Ministry:** As noted at Paragraph 23 above, this Hon’ble Court in **L. Chandra Kumar** (supra) noted that “**The administrative support for all Tribunals should be from the Ministry of Law & Justice. Neither the Tribunals nor its members shall seek or be provided with facilities from the respective sponsoring or parent Ministries or concerned Department.**” In more than two decades, no steps have been initiated by the Ministry of Law & Justice to take over the functioning of the tribunals. On the contrary, the Tribunal Rules are *ex-facie* contemptuous and blatantly disregard the mandate of this Hon’ble Court to unify administration of Tribunals.

51. In the above premises, aggrieved by the provisions of the Finance Act, 2017 and the Tribunal Rules framed thereunder, the Petitioner prefers the present Writ Petition *inter alia* on the following grounds, which are urged in the alternative and without prejudice to one another:

## **GROUND**

I. **BECAUSE** the framers of the Constitution have consciously made a distinction between various types of Bills – namely - Constitution Amendment Bill, Ordinary Bill, Finance Bill and Money Bill. The Articles 109, 110 and 117 have carved out definitive scope, legislative subjects and prescribed special procedure for enactment of Money Bills. The provisions of Finance Act, impugned herein, do not fall within the parameters of ‘Money Bill’ provided under Article 110 of the Constitution. The passage of Finance Act is a blatant overreach of substantive provisions of the Constitution and liable to be struck down for procedural illegality, *inter alia* for the following reasons:

(a) **First** and foremost, the impugned provisions of the Finance Act substantively deal with provisions affecting ‘**administration of justice**’ and allied subjects. Admittedly, the convergence of Tribunals was proposed based on three parameters – namely (i) functional requirements; (ii) qualifications, and (iii) workload – none of which fall within the scope of legislative heads specified in Clause (1) of Article 110 in *sensu stricto* or even on an liberal construction. Besides this, the dominant effect of the impugned provisions is far from enabling or

connected to a fiscal measure. In other words, the impugned provisions were not enacted with a view to make provisions for fiscal adjustments or such other measures. It is submitted that Clause (1) of Article 110 is exhaustive of legislative subjects to be considered as a 'Money Bill', and by necessary implication, all other aspects are excluded therefrom. Even amongst these subjects, the Clause (2) of Article 110 excludes Bills to be treated as a Money Bill merely for making provisions for imposition of fine, penalties, license fees or affecting levies imposed by any local authority or body intended for local purpose. Thus, the categories enumerated in Clause (1) of Article 110 are **exhaustive** and pertains to narrowly defined fiscal subjects. Thus, the sweeping changes to jurisdiction, composition, appointments and service conditions of Members of Scheduled Tribunals dealing with **administration of justice** and cannot be treated as 'Money Bill' merely for any incidental expenditure to be incurred from the Consolidated Fund of India.

- (b) **Second**, it is unclear if the impugned provisions have any financial implications, and or require appropriation or regulate monies out of the Consolidated Fund. The provisions of the Finance Act impugned herein do not create new Tribunals or add new posts/positions. On the other hand, the provisions affecting service conditions, salaries and other emoluments of Members –though involve appropriation out of Consolidated Fund –but the dominant object and purpose of such provisions

is quite far from being considered as a fiscal measure.

- (c) **Third**, Clause (i) of Rule 80 of the Business Rules – framed in accordance with Article 118 – do not permit ‘amendments’ to a Bill which are neither relevant to the subject matter nor falls within its scope. However, the House suspended Clause (i) of Rule 80 before introducing and voting on the motion to insert PART XIV to the Finance Act. In other words, the said amendment would be inadmissible as it does not fall within the scope of the Bill or relevant or subject-matter of the Bill. This is an acknowledgment that PART XIV of the Finance Act is misfit and does not conform to the parameters provided under Clause (1) of Article 110.
- (d) **Fourth**, Clause (1) of Article 323B is highly instructive inasmuch as it imposes an obligation on the Parliament to frame a law in respect of creation of tribunals for adjudication of disputes specified in Clause (2). Furthermore, the Sub-clause (f) under Clause (3) of Article 323B requires such law to provide for any “**supplemental, incidental and consequential**” measures necessary for the effective functioning, speedy disposal and enforcement of orders. It is submitted that any law dealing with Tribunals under Article 323B for its effective functioning cannot be construed as a fiscal subject under Article 110. Similarly, any other law dealing with Tribunals constituted under Entry 11A of List III and such other entries under Schedule VII cannot

be considered as fiscal subjects, irrespective of its financial implications on the State.

- II. **BECAUSE** the Clause (1) of Article 117 provides for introduction of Finance Bill only in the House of People **if and only if** the Bill or an Amendment thereto falls within any of the matters contained in Clause (1) of Article 110, and the procedure of passage of such Finance Bills is exclusively provided under Article 109. By necessary implication, all other Finance Bills and any Amendments – not within the strict scope of Clause (1) of Article 110 – are not subject to such restrictions and are required to follow the procedure laid down in Articles 107 and 108. The Speaker, however, in exercise of special jurisdiction under Clause (3) of Article 110 erroneously ruled that provisions of Finance Act must be treated as a ‘Money Bill’. By virtue of Clause (4) of Article 110, moreover, the Finance Bill as passed by the Lower House was transmitted to the Rajya Sabha under the certificate of the Speaker to treat it as a ‘Money Bill’. Hence, the role of Upper House was severely restricted to merely offering non-binding recommendations to the Lok Sabha. In essence, the role and views of Council of States on the subject was rendered irrelevant and nugatory. Thus, the Finance Act was passed in complete derogation of mandatory provision under Clause (2) of Article 107 which requires approval of both Houses on all subjects matters other than Money Bill.
- III. **BECAUSE** the procedure adopted to enact the Finance Act is a gross abuse of parliamentary practices and violation of substantive procedure prescribed under the Constitution. The Hon’ble Speaker has ignored the fact that

none of the Scheduled Acts, or relevant provisions therein, have been introduced as a 'Money Bill' earlier. The Hon'ble Speaker not only erred ignoring earlier precedents, but the manifest act in transmitting the Finance Bill as a Money Bill to the Upper House is a fraud on the Constitution.

IV. **BECAUSE** the exclusion of jurisdiction of this Hon'ble Court by virtue of Article 122 of the Constitution is inapplicable, inasmuch as the power of judicial review of this Hon'ble Court is inviolable to cure procedural illegalities and issue appropriate reliefs to restore the supremacy of the constitution. In the backdrop of egregious violations, it is submitted that the passage of Bill cannot be immune from judicial scrutiny. To this extent, the decision of this Hon'ble Court in **Mohd. Saeed Siddiqui v. State of Uttar Pradesh & Another** (2014) 11 SCC 415 [followed in (2016) 3 SCC 183] requires reconsideration.

V. **BECAUSE** the Clause (1) of Section 184 of the Finance Act has delegated 'essential legislative function' to the rule-making powers of the Central Government to enact rules affecting (a) qualifications; (b) appointment & selection process; (c) term and tenure of office; (d) resignation and removal procedure; (e) salaries and emoluments; and (f) leave and other conditions of services. As stated at Paragraphs 19 to 25 above, the efficacy and independence of judicial tribunals has been recognized by this Hon'ble Court as an inviolable part of basic structure of the Constitution. The eligibility criteria, selection process and service conditions of members of

Tribunal is determinative of its independence and for proper and effective discharge of judicial functions. The Finance Act, on the other hand, has causally delegated the powers to prescribe the service conditions to the Central Government. It is instructive to note that Clause (1) of Article 323B imposes an obligation on the Parliament to frame a law in respect of creation of tribunals for adjudication of disputes. Furthermore, such law may contain “**supplemental, incidental and consequential**” measures necessary for effective functioning, speedy disposal and enforcement of orders - by virtue of Sub-clause (f) under Clause (3) of Article 323B. Similarly, any provision affecting or dealing with critical aspects of Tribunals dealing with their power, jurisdiction and independence must necessarily be enacted through a legislation.

VI. **BECAUSE** the delegation of essential features of a Judicial Tribunal in the hands of Central Government is a self-effacement of essential legislative functions. Moreover, the Finance Act does not provide any legislative framework or guidance to the Central Government in laying down service conditions providing unruly discretion. The failure to lay down precise parameters would leave the Members of the Tribunals vulnerable and susceptible to pressures and influences from the Executive. At the minimum, the suspicion of interference by the executive and the perception of bias are irrefutable. This Hon’ble Court in **Devi Das Gopal Krishnan v. State of Punjab**[1967] 3 SCR 557 unambiguous terms held that the Courts must strike down delegation of essential legislative functions, and it is unnecessary to offer any liberal construction to identify



any dormant or latent legislative policy to sustain the arbitrariness.

“... An overburdened legislature or one controlled by a powerful executive may unduly overstep the limits of delegation. It may not lay down any policy at all; it may declare its policy in vague and general terms; it may not set down any standard for the guidance of the executive; it may confer an arbitrary power on the executive to change or modify the policy laid down by it without reserving for itself any control over subordinate legislation. This self effacement of legislative power in favour of another agency either in whole or in part is beyond the permissible limits of delegation. It is for a Court to hold on a fair, generous and liberal construction of an impugned statute whether the legislature exceeded such limits. **But the said liberal construction should not be carried by the Courts to the extent of always trying to discover a dormant or latent legislative policy to sustain an arbitrary power conferred on executive authorities. It is the duty of the Court to strike down without any hesitation any arbitrary power conferred on the executive by the legislature.**

See *Vasantlal Maganbhai Sanjanwala v. State of Bombay* [(1961) 1 SCR 341] at pp. 356-357.”

[See also *Hamdard Dawakhana (WAKF) Lal Kuan, Delhi & Another v. Union of India & Others* [1960] 2 SCR 671]

VII. **BECAUSE** the Finance Act and the Tribunal Rules seriously affect the stature, efficacy and independence of the Tribunals. This Hon'ble Court in **Sampath Kumar**(supra) stated that: **"It can no longer be disputed that total insulation of the judiciary from all forms of interference from the co-ordinate branches of the Government is a basic essential feature of the Constitution, the same independence from possibility of Executive pressure or influence must also be ensured to the Chairman, vice Chairman and Members of the Administrative Tribunals... The Constitution makers have made anxious provision to secure total independence of the judiciary from executive pressure or influence."**The importance to ensure judicial independence assumes heightened importance considering the fact that the Executive is directly involved in the *lis* before seventeen (17) out of nineteen (19) Scheduled Tribunals. It is submitted that the Impugned Act and Rules are *ex-facie* violative of the basic structure of the Constitution inasmuch as the Central Government has undue control over the appointments and other service conditions of the Scheduled Tribunals.

VIII. **BECAUSE** the Impugned Rules relating to the appointment of the Members are in violation of binding guidelines laid down by this Hon'ble Court, wherein the only members with the status and experience equivalent to the Judges of the High Courts can only be considered. On the other hand, the Impugned Rules have permitted Specialist/Technical Member to appointed as the Chairperson or President of a Tribunal. More egregiously, RULE 10 allows the Central Government may appoint any

member (including Specialist Member) to act as the Chairperson in case of any casual vacancy, contrary to **R. Gandhi** (supra). The submissions at Paragraph 50 above reiterated and are not repeated for brevity.

- IX. **BECAUSE** this Hon'ble Court in **R. Gandhi** (supra) categorically held that only Judges and Advocates must be considered for appointment as Judicial Members. [**Pr. 120(i)**] The Madras High Court in **Shamnad Basheer** (supra) struck down Section 85(3)(a) of the Trade Marks Act precisely on this count, holding that an Indian Legal Service ('**ILS**') officers [Grade I] is ineligible for appointment to the post of Judicial Officer. In spite of the clear mandate, the Impugned Rules permit ILS Officers to be appointed as Judicial Members for ITAT, CESTAT, RCT, AAT and DRAT. Few other Tribunals permit 'Judicial Officers' with 10 years of experience to be considered for appointment, although the categories of officers eligible for appointment is undefined.
- X. **BECAUSE** this Hon'ble Court in **R. Gandhi** (supra) held that direct relevant experience in the subject – and not merely incidental knowledge - is a precondition for persons to be considered for appointment as Technical Member. [**Pr. 120(iii)**] Furthermore, this Hon'ble Court held that bureaucrats may be considered for the post of Technical Members if and only if they have held the rank of Secretaries/Add. Secretaries. The Tribunals such as SAT and IPAB have not only appointed bureaucrats below the rank of Add. Secretary, but permit persons without no relevant expertise on the subject to be appointed.

XI. **BECAUSE** RULE 4 read with Column (4) of the Schedule dealing with Search-cum-Selection Committee for appointment of Members for each of the Scheduled Tribunal is manifestly arbitrary and seriously undermines the primacy of judiciary. The Tribunal Rules blatantly contravene the binding principles laid down by this Hon'ble Court in **R. Gandhi** (supra) et. al., to ensure independence in the appointment process. In particular, this Hon'ble Court has held that the composition of Search-cum-Selection Committee should (a) give primacy to the Judiciary, (b) headed by Chief Justice of India (or his nominee) and (c) having a casting vote. However, the Selection Committees prescribed by the Central Government falls short of the said stipulation on all counts, as detailed below:

- i. The composition for every Selection Committee completely undermined the primacy of the Judiciary, inasmuch it fails to ensure equal representation alongside the Executive. The opinion of the Chief Justice or his nominee could be entirely disregarded.
- ii. Insofar as appointments to IDT and FCAT, the Judiciary is entirely excluded from the Selection Committees. In several others, such as ITAT, ATFP, CAT, RCT, SAT, TDSAT, IPAB, AAR, APTEL and NGT, the Selection Committees for Members does not include any representation from the Judiciary.
- iii. Few Scheduled Tribunals – such as IDT, CESTAT, SAT, AAR, - comprise of even members, however,

the Impugned Rules do not contemplate the procedure for resolving conflicts.

- iv. The criteria and procedure for nomination of 'Experts' included as part of the Selection Committees, in the cases of IDT, ITAT, CAT, RCT, AAT, TDSAT, IPAB, FCAT, APTEL and NGT, has not been specified howsoever. As a result, the Central Government has complete discretion to appoint 'Experts' of their choice.
- v. The Secretary of the relevant/parent Ministry acts as the convener of their respective Search-cum-Selection Committees, as per RULE 4(2). As a result, the meetings, deliberations, advertisements and other secretarial aspects of appointments are entirely under the control of the parent Ministry/Department.

XII. **BECAUSE** the Impugned Rules allows the Central Government to initiate an enquiry merely on written complaint without the consultation or concurrence from the Chief Justice. The composition of the Committee entrusted to conduct an enquiry has not been specified, giving wide and unguided discretion to the Central Government. Furthermore, the Central Government has been given the powers to remove a member based on the recommendation of the Committee, and without any necessity to consult or receive concurrence from the Chief Justice (with the exception to NCLAT). This would effectively mean that Judge of a High Court can be removed by the Central Government, based on an inquiry conducted by the Nodal Ministry, and subsequently removed by the same Ministry. It is submitted that said

procedure is a stark departure from the procedure laid down in several parent Acts of Tribunals which vested the powers to enquire and removal of any member through Judges and with the concurrence of the Chief Justice of India. The entirely removal process creates a master-servant relationship between the Central Government and Members of the Tribunals, and casts a huge shadow on impartiality and fairness in their adjudication process. Thus, it is submitted the removal procedure is manifestly arbitrary, unreasonable and violative of the doctrine of separation of powers.

XIII. **BECAUSE** the retirement age for members of the Tribunals is not uniform and without any rational basis. The Rule has ignored the 232<sup>nd</sup> Report of the Law Commission which recommended that “**There is an imperative need to fix the age of retirement of Chairpersons and Members of various Tribunals up to the age of 70 and 65, respectively.**” On the other hand, the Standing Committee in their 74<sup>th</sup> Report opined that retirement age should be fixed at the age of 70 years for all members. The Impugned Rules have failed to maintain uniformity across the Tribunals, and is entirely arbitrary.

XIV. **BECAUSE** the service conditions of Members - such as salaries, leave pay, TA, HRA and other benefits – is made equivalent to Group ‘A’ officers of the Government of India of a corresponding status. However, this Hon’ble Court has repeatedly stated that the service conditions admitted to Members of such Tribunals should be equivalent or comparable to that of High Court Judges. The submissions at Paragraph 50 above reiterated and are not repeated for brevity.

- XV. **BECAUSE** the Leave Sanctioning Authority for grant of leave to the Members has been vested in the hands of Central Government as per RULE 14. In view of the Business Allocation Rules, the concerned in-charge/parent Ministry or Department would act as concerned Leave Sanctioning Authority. This has reinforced master-servant relationship between the concerned Ministry/Department and the Tribunal. It is instructive to note that the similar provision was included in the draft Tribunals Bill, and the Standing Committee several criticized the provision in the following words: “... **The Committee is not in agreement with the Clause 20 of Bill mainly for two reasons. Firstly, if leave sanctioning authority remains with the ministry-in-charge it would affect the independence of the Tribunals as the concerned Ministry is one of the parties to the disputes that come for adjudication before the Tribunal and secondly, it affects the status of Tribunals.**”
- XVI. **BECAUSE** the Impugned Rules are not only arbitrary and vague, but also lack uniformity *inter se* amongst various Scheduled Tribunals. The difference in retirement ages, selection process, eligibility criteria and other service conditions for different members of similarly placed tribunals is entirely in violation of the ‘equal protection’ clause of Article 14 which requires similarly placed classes to be treated equally. There is no reasonable basis to have different procedure or criteria for tribunals carrying out similar functions.
- XVII. **BECAUSE** the administrative assistance and support to all the Tribunals have continued to remain under the Nodal

Ministry, contrary to the guidelines prescribed by this Hon'ble Court in **Chandra Kumar** (supra) and binding directions issued in **R. Gandhi** (supra), wherein the Ministry of Law & Justice (i.e., Respondent No. 1) was given the responsibility to provide administrative support for all Tribunals. It is submitted that the dependence of Tribunals on their 'parent' Ministry/Department is not only a clear case of conflict of interest, but has an enduring and debilitating effect on the independent and impartial adjudication by the Tribunal.

XVIII. **BECAUSE** the separation of executive from judiciary as envisaged under Article 50 is a part of the basic structure of the Constitution, and necessary for rule of law and access to justice. The Impugned Rules directly encroach into these basic features and derogate from the same by vesting vague and unbridled powers in the Executive. RULE 21, for instance, is testament to such Executive excesses. The Central Government has reserved to itself the final authority in interpreting service conditions, without any legislative oversight. Overall, the Executive enjoys dominant and pervasive control over the functioning of the Scheduled Tribunals.

52. The Petitioner has not filed any other petition before this Hon'ble Court or in any High Court or this Hon'ble Court challenging the constitutional validity of the Impugned Act and Rules.
53. The Petitioner submit that there is no other alternative, equally efficacious remedy available to them.



54. The Petitioner state that they are approaching this Hon'ble Court as expeditiously as possible and there is no delay or laches in filing the present Petition.
55. This Hon'ble Court has jurisdiction to entertain try and dispose of this Petition under Article 32 of the Constitution of India.

### **PRAYER**

In the premises, it is most respectfully prayed that this Hon'ble Court may be pleased to -

- A. Issue a Writ of Declaration and Mandamus or any other appropriate Writ, Direction, Order or such other appropriate remedy to declare the Finance Act, 2017 [ACT No. 7 of 2017] as null and void for violation of Articles 107, 110 and 117 of the Constitution of India;
- B. Issue a Writ of Declaration and Mandamus or any other appropriate Writ, Direction, Order or such other appropriate remedy to declare PART XIV of Finance Act, 2017 [ACT No. 7 of 2017] as ultra vires the Articles 14, 21, 50 and 323B of the Constitution of India and violative of basic structure of the Constitution;
- C. Issue a Writ of Declaration and Mandamus or any other appropriate Writ, Direction, Order or such other appropriate remedy to declare the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017 as being illegal and *ultravires* the Articles 14, 21 and 50 of the Constitution of India; and

D. Pass such further and other orders as this Hon'ble Court may deem fit and proper in the instant facts and circumstances.

FILED BY:

Drawn on : 05.08.2016  
Filed on : 25.08.2017

**NIKHILNAYYAR**  
ADVOCATE FOR THE PETITIONER

Settled By: Arvind P. Datar  
Senior Advocate

Drawn By: Nikhil Nayyar, Advocate  
N. Sai Vinod, Advocate  
Rahul Unnikrishnan, Advocate

**IN THE SUPREME COURT OF INDIA**

CIVIL ORIGINAL JURISDICTION  
(Under Article 32 of the Constitution of India)

WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2017

**Revenue Bar Association** ... PETITIONER

**VERSUS**

**Union of India & Others** ... RESPONDENTS

**AFFIDAVIT**

I, [■], aged about [■] years, office at [■], Chennai – [■], do hereby solemnly affirm and state as under:-

1. That I am the [■] of Petitioner authorized to swear the present affidavit and am as such am conversant with facts and circumstances of the matter as borne out from the records and as such am competent to swear the present affidavit.
2. That the contents of the List of Dates from pages **Bto**\_\_ and those of Paragraph Nos. \_\_\_\_\_ from Pages **1to** of the Writ Petition are facts true to my knowledge, and the contents of Paragraph Nos. \_\_\_\_\_ are based upon legal advice received by me from the Advocate on Record and believed to be true and correct, while the rest are prayers made to this Hon'ble Court.
3. That the contents of Paragraphs \_\_\_\_\_ of the accompanying application for ex-parte stay are facts true to my knowledge and the contents of Paragraph Nos. \_\_\_\_\_ are based upon legal advice received by me from the Advocate on Record and believed to be true and correct, while the rest are prayers made to this Hon'ble Court.

4. The annexures filed along with the Writ Petition are true copies of their respective originals.

**DEPONENT**

**VERIFICATION**

Verified on this the .....day of August, 2017 at Chennai that the contents of the above affidavit are true and correct to the best of my knowledge and belief and that no part of it is false and nothing material has been concealed there from.

**DEPONENT**

**APPENDIX - A****Constitution of India, 1950***14. Equality before law*

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

*21. Protection of life and personal liberty*

No person shall be deprived of his life or personal liberty except according to procedure established by law.

*50. Separation of judiciary from executive*

The State shall take steps to separate the judiciary from the executive in the public services of the State.

*110. Definition of "Money Bills"*

- (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains **only** provisions dealing with all or any of the following matters, namely
- (a) the imposition, abolition, remission, alteration or regulation of any tax;
  - (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;
  - (c) the custody of the consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;

- (d) the appropriation of moneys out of the consolidated Fund of India;
- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or
- (g) any matter incidental to any of the matters specified in sub clause (a) to (f).

*323B. Tribunals for other matters.*

- (1) The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws
- (2) The matters referred to in clause (1) are the following, namely:
  - (a) levy, assessment, collection and enforcement of any tax;
  - (b) foreign exchange, import and export across customs frontiers;
  - (c) industrial and labour disputes;
  - (d) land reforms by way of acquisition by the State of any estate as defined in Article 31A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;
  - (e) ceiling on urban property;

- (f) elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in Article 329 and Article 329A;
  - (g) production, procurement, supply and distribution of foodstuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods for the purpose of this article and control of prices of such goods;
  - (h) offences against laws with respect to any of the matters specified in sub clause (a) to (g) and fees in respect of any of those matters;
  - (i) any matter incidental to any of the matters specified in sub clause (a) to (h)
- (3) A law made under clause (1) may—
- (a) provide for the establishment of a hierarchy of tribunals;
  - (b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;
  - (c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;
  - (d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to all or any of the matters falling within the jurisdiction of the said tribunals;
  - (e) provide for the transfer to each such tribunal of any cases pending before any court or any other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

- (f) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as the appropriate Legislature may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.
- (4) The provisions of this article have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

*Explanation.*—In this article, “appropriate Legislature”, in relation to any matter, means Parliament or, as the case may be, a State Legislature competent to make laws with respect to such matter in accordance with the provisions of Part XI.



**APPENDIX - B****Rules of Procedure and Conduct of Business in Lok Sabha****CHAPTER X  
Legislation*****Amendments to clauses etc. and clause by clause consideration of  
Bills*****80. *Admissibility of amendments.***

The following conditions shall govern the admissibility of amendments to clauses or schedules of a Bill:—

- (i) An amendment shall be within the scope of the Bill and relevant to the subject-matter of the clause to which it relates.
- (ii) An amendment shall not be inconsistent with any previous decision of the House on the same question.
- (iii) An amendment shall not be such as to make the clause which it proposes to amend unintelligible or ungrammatical.
- (iv) If an amendment refers to, or is not intelligible without a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole.
- (v) The Speaker shall determine the place at which an amendment shall be moved.
- (vi) The Speaker may refuse to propose an amendment which is, in the opinion of the Speaker, frivolous or meaningless.
- (vii) An amendment may be moved to an amendment which has already been proposed by the Speaker

**CHAPTER XIX**  
**Financial Business**

*Appropriation Bill*

*218. Procedure regarding Appropriation Bill.*

- (1) Subject to the provision of the Constitution, the procedure in regard to an Appropriation Bill shall be the same as for Bills generally with such modifications as the Speaker may consider necessary.
- (2) The debate on an Appropriation Bill shall be restricted to matters of public importance or administrative policy implied in the grants covered by the Bill which have not already been raised while the relevant demands for grants were under consideration.
- (3) The Speaker may, in order to avoid repetition of debate, require members desiring to take part in discussion on an Appropriation Bill to give advance intimation of the specific points they intend to raise, and the Speaker may withhold permission for raising such of the points, as in the opinion of the Speaker appear to be repetitions of the matters discussed on a demand for grant or as may not be of sufficient public importance.
- (4) If an Appropriation Bill is in pursuance of a supplementary grant in respect of an existing service, the discussion shall be confined to the items constituting the same, and no discussion shall be raised on the original grant nor the policy underlying it save in so far as it may be necessary to explain or illustrate a particular item under discussion.
- (5) The Speaker, if thinks fit, may prescribe a time limit for speeches.

**ANNEXURE P-1****COPY OF CERTIFICATE OF S. NO. 13 of 1963.**

CERTIFICATE OF REGISTRATION OF SOCIETIES ACT, XXI OF 1960 S. No. 13 of 1963, I hereby certify that "REVENUE BAR ASSOCIATION" has this day been registered under the Societies' Registration Act XXI of 1960.

Given under my hand at Madras, this Twentieth day February one thousand nine hundred and sixty three ...(sd.) 20/2. Registrar of Assurances Chingleput District. (Seal)

(True copy)

O/o. REGISTRAR OF SOCIETIES  
MADRAS – CENTRAL.

30.7.1984.  
Registrar of Societies.

Dated : 30.7.1984.

(The seal of the Registrar of  
Societies, Madras Central  
Tamil Nadu)

**TRUE COPY**

**ANNEXURE P-2**

REGISTERED NO. DL—(N)04/0007/2003—17

THE GAZETTE OF INDIA  
EXTRAORDINARY  
PART II—Section 1  
PUBLISHED BY AUTHORITY

No. 7] NEW DELHI, FRIDAY, MARCH 31, 2017/CHAITRA 10,  
1939 (SAKA)

Separate paging is given to this Part in order that it may be filed as a  
separate compilation.

MINISTRY OF LAW AND JUSTICE  
(Legislative Department)

New Delhi, the 31<sup>st</sup> March, 2017/Chaitra 10, 1939 (Saka)

The following Act of Parliament received the assent of the President on  
the 31<sup>st</sup> March, 2017, and is hereby published for general  
information:—

THE FINANCE ACT, 2017  
NO. 7 OF 2017

[31<sup>st</sup> March, 2017.]

An Act to give effect to the financial proposals of the Central  
Government for the financial year 2017-2018.

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

CHAPTER I  
PRELIMINARY

1. Short title and commencement.
  - (1) This Act may be called the Finance Act, 2017.
  - (2) Save as otherwise provided in this Act, sections 2 to 88 shall  
come into force on the 1<sup>st</sup> day of April, 2017.

...

PART XIV  
AMENDMENTS TO CERTAIN ACTS TO PROVIDE FOR  
MERGER OF TRIBUNALS AND OTHER AUTHORITIES AND  
CONDITIONS OF SERVICE OF CHAIRPERSONS, MEMBERS,  
ETC.

A. — PRELIMINARY

156. Commencement of this Part

The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Part and any reference in any provision to the commencement of this Part shall be construed as a reference to the coming into force of that provision.

157. Definitions

In this Part, unless the context otherwise requires,—

- (a) "appointed day", in relation to any provision of this Part, means such date as the Central Government may, by notification in the Official Gazette, appoint;
- (b) "Authority" means the Authority, other than Tribunals and Appellate Tribunals, specified in the Eighth Schedule or Ninth Schedule, as the case may be;
- (c) "notification" means a notification published in the Official Gazette;
- (d) "Schedule" means the Eighth Schedule and Ninth Schedule appended to this Act.

B.—AMENDMENTS TO THE INDUSTRIAL DISPUTES  
ACT, 1947 AND THE EMPLOYEES' PROVIDENT  
FUNDS AND MISCELLANEOUS PROVISIONS ACT,  
1952.

## 158. Amendment of Act 14 of 1947

In the Industrial Disputes Act, 1947,—

- (a) in section 7A, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Industrial Tribunal constituted by the Central Government under sub-section (1) shall also exercise, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, the jurisdiction, powers and authority conferred on the Tribunal referred to in section 7D of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.";

- (b) after section 7C, the following section shall be inserted, namely:—

"7D. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation and removal and other terms and conditions of service of the Presiding Officer of the Industrial Tribunal appointed by the Central Government under sub-section (1) of section 7A, shall, after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be governed by the provisions of section 184 of that Act:

Provided that the Presiding Officer appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

## 159. Amendment of Act 19 of 1952

In the Employees' Provident Funds and Miscellaneous Provisions Act, 1952,—

- (a) in section 2, for clause (m), the following clause shall be substituted, namely:—

'(m) "Tribunal" means the Industrial Tribunal referred to in section 7 D;';

- (b) for section 7D, the following section shall be substituted, namely:—

"7D. The Industrial Tribunal constituted by the Central Government under sub-section (1) of section 7A of the Industrial Disputes Act, 1947 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.";

- (c) sections 7E, 7F, 7G, 7H, 7M and 7N shall be omitted;

- (d) for section 18A, the following section shall be substituted, namely:—

Authorities and inspector to be public servant

"18A. The authorities referred to in section 7A and every inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.";

- (e) in section 21, in sub-section (2), clause (a) shall be omitted.

C.—AMENDMENTS TO THE COPYRIGHT ACT, 1957  
AND THE TRADE MARKS ACT, 1999.

160. Amendment of Act 14 of 1957

In the Copy Right Act, 1957,—

- (a) for the words "Copyright Board", wherever they occur, the words "Appellate Board" shall be substituted;
- (b) in section 2, after clause (a), the following clause shall be inserted, namely:—

'(aa) "Appellate Board" means the Appellate Board referred to in section 11';

- (c) for section 11, the following section shall be substituted, namely:—

"11. The Appellate Board established under section 83 of the Trade Marks Act, 1999 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Board for the purposes of this Act and the said Appellate Board shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.";

- (d) in section 12, sub-sections (3) and (4) shall be omitted;
- (e) in section 78, in sub-section (2), clause (a) shall be omitted."

161. Amendment of 47 of 1999

In the Trade Marks Act, 1999,—



- (a) for the word "Chairman" or "Vice-Chairman", wherever it occurs, the word "Chairperson" or "Vice-Chairperson" shall be substituted;
- (b) in section 83, after the words "under this Act", the words and figures "and under the Copyright Act, 1957" shall be inserted;
- (c) after section 89, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson,  
Vice-Chairperson and Member

"89A. Notwithstanding anything in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson, Vice-Chairperson and other Members of the Appellate Board appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson, Vice-Chairperson and other Members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017, had not come into force."

D.—AMENDMENTS TO THE RAILWAY CLAIMS TRIBUNAL  
ACT, 1987 AND THE RAILWAYS ACT, 1989.

162. Amendment of Act 54 of 1987

In the Railway Claims Tribunal Act, 1987,—

(a) in section 3, after the words "under this Act", the words, letters and figures "and under Chapter VII of the Railways Act, 1989" shall be inserted;

(b) after section 9, the following section shall be substituted, namely:—

"9A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairman, Vice-Chairman and other Members of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman, Vice-Chairman and Members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017, had not come into force.";

(c) in section 13, after sub-section (IA), the following sub-section shall be inserted, namely:—

"(1B) The Claims Tribunal shall also exercise, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, the jurisdiction, powers and authority conferred on the Tribunal under Chapter VII of the Railways Act, 1989.";

(d) in section 15, for the words, brackets, figures and letter "sub-sections (1) and (1A)", the words, brackets, figures

and letters "sub-sections (1), (1A) and (1B)" shall be substituted;

- (e) in section 24, in sub-section (1), for the words, brackets, figure and letter "or, as the case may be, the date of commencement of the provisions of sub-section (1A)", at both the places where they occur, the words, brackets, figures and letters "or the date of commencement of the provisions of sub-section (1A), or, as the case may be, the date of commencement of the provisions of sub-section (1B)" shall be substituted.

163. Amendment of Act 24 of 1989

In the Railways Act, 1989,—

- (a) in section 2, for clause (40), the following clause shall be substituted, namely:—

'(40) "Tribunal" means the Tribunal referred to in section 33;'

- (b) in Chapter VII, for the heading, the following heading shall be substituted, namely:—

"TRIBUNAL";

- (c) for section 33, the following section shall be substituted, namely:—

Tribunal

"33. The Railway Claims Tribunal established under section 3 of the Railway Claims Tribunal Act, 1987 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise

the jurisdiction, authority and powers conferred on it by or under this Act.";

- (d) sections 34 and 35 shall be omitted;
- (e) in section 48, in sub-section (2), clause (a) shall be omitted.

E. —AMENDMENTS TO THE SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS (FORFEITURE OF PROPERTY) ACT, 1976 AND THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999.

164. Amendment of Act of 1976

In the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976,—

- (a) in section 12, in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

"(d) by the Adjudicating Authorities, Competent Authorities and the Qualifications, Special Director (Appeals) under the Foreign Exchange Management Act, 1999.";

- (b) after section 12, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson, and Member

"12A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other members of the Appellate Tribunal appointed after the

commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and other members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

165. Amendment of Act 42 of 1999

In the Foreign Exchange Management Act, 1999,—

(a) in section 2,—

(i) for clause (b), the following clause shall be substituted, namely:—

'(b) "Appellate Tribunal" means the Appellate Tribunal referred to in section 18;';

(ii) in clause (zc), for the word and figures "section 18", the word and figures "section 17" shall be substituted;

(b) for section 18, the following section shall be substituted, namely:—

Appellate Tribunal

"18. The Appellate Tribunal constituted under sub-section (1) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall

exercise the jurisdiction, powers and authority conferred on it by or under this Act.";

- (c) section 20 shall be omitted;
- (d) for section 21, the following section shall be substituted, namely:—

Qualifications, for appointment of Special Director (Appeals)

"21. A person shall not be qualified for appointment as a Special Director (Appeals) unless he—

(a) has been a member of the Indian Legal Service and has held a post in Grade I of that Service; or

(b) has been a member of the Indian Revenue Service and has held a post equivalent to a Joint Secretary to the Government of India.";

- (e) section 22 shall be omitted;
- (f) for section 23, the following section shall be substituted, namely:—

"23. The salary and allowances payable to and the other terms and conditions of service of the Special Director (Appeals) shall be such as may be prescribed.";

- (g) sections 24, 25 and 26 shall be omitted;
- (h) for section 27, the following section shall be substituted, namely:—

"27. (1) The Central Government shall provide the office of the Special Director (Appeals) with such officers and employees as it may deem fit.

(2) The officers and employees of the office of the Special Director (Appeals) shall discharge their functions under the general superintendence of the Special Director (Appeals).

(3) The salaries and allowances and other terms and conditions of service of the officers and employees of the office of the Special Director (Appeals) shall be such as may be prescribed.";

(i) sections 29, 30 and 31 shall be omitted;

(j) in section 32,—

(i) for the words and brackets "Appellate Tribunal or the Special Director (Appeals), as the case may be", at both the places where they occur, the words and brackets "Special Director (Appeals)" shall be substituted;

(ii) in sub-section (1), for the words and brackets "Appellate Tribunal or the Special Director (Appeals)", the words and brackets "Special Director (Appeals)" shall be substituted;

(k) for section 33, the following section shall be substituted, namely:—

Officers and employees, etc., to be public servant

"33. The Adjudicating Authority, Competent Authority and the Special Director (Appeals) and other officers and employees of the Special Director (Appeals) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.";

(l) in section 46, in sub-section (2),—

(i) in clause (e), for the words and brackets "Chairperson and other Members of the Appellate Tribunal and the Special Director (Appeals)", the words and brackets "Special Director (Appeals)" shall be substituted;

(ii) in clause (f), for the words and brackets "Appellate Tribunal and the office of the Special Director (Appeals)", the words and brackets "office of the Special Director (Appeals)" shall be substituted.

F.—AMENDMENTS TO THE AIRPORTS AUTHORITY OF INDIA ACT, 1994 AND THE CONTROL OF NATIONAL HIGHWAYS (LAND AND TRAFFIC) ACT, 2002.

166. Amendment of Act 55 of 1994

In the Airports Authority of India Act, 1994,—

- (a) in section 28-I, in sub-section (1), after the words "under this Act", the words, brackets and figures "and the Control of National Highways (Land and Traffic) Act, 2002" shall be inserted;
- (b) after section 28J, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson

"28JA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson of the Tribunal appointed after the commencement of Part XIV of Chapter



VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

167. Amendment of Act 13 of 2003

In the Control of National Highways (Land and Traffic) Act, 2002,—

- (a) in section 2, for clause (1), the following clause shall be substituted, namely:—

‘(1) "Tribunal" means the Airport Appellate Tribunal referred to in sub section (1) of section 5;’;

- (b) in Chapter II, for the heading, the following heading shall be substituted, namely:—

"HIGHWAYS ADMINISTRATION AND TRIBUNALS,  
ETC.";

- (c) in section 5,—

- (i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Airport Appellate Tribunal established under section 28-I of the Airports Authority of India Act, 1994 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for

the purposes of this Act and the said Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.";

- (ii) in sub-section (2), for the words, brackets and figure "shall also specify, in the notification referred to in sub-section (1)", the words "shall specify, by notification in the Official Gazette", shall be substituted;
- (d) sections 6, 7, 8, 9, 10, 11, 12 and 13 shall be omitted;
- (e) for section 44, the following section shall be substituted, namely:—

Officers of Highways Administration to be public servant

"44. The officer or officers constituting the Highways Administration and any other officer authorised by such Administration under this Act, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.";

- (f) in section 45, for the words "the Presiding Officer of the Tribunal or any other officer of the Central Government or an officer or employee of the Tribunal", the words "any other officer of the Central Government" shall be substituted;
- (g) in section 50, in sub-section (2), clauses (b), (c), (d) and (e) shall be omitted.

G. —AMENDMENTS TO THE TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997, THE INFORMATION TECHNOLOGY ACT, 2000 AND THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA ACT, 2008.

## 168. Amendment of Act 24 of 1997

In the Telecom Regulatory Authority of India Act, 1997,—

- (a) in section 14, after clause (b), the following clause shall be inserted, namely:—

"(c) exercise jurisdiction, powers and authority conferred on—

(i) the Appellate Tribunal under the Information Technology Act, 2000; and

(ii) the Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008.";

- (b) after section 14G, the following section shall be substituted, namely:—

Qualifications, terms and conditions of service of Chairperson and Member

"14GA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as

if the provisions of section 184 of the Finance Act, 2017 had not come into force."

169. Amendment of Act 21 of 2000

In the Information Technology Act, 2000,—

(a) for the words "Cyber Appellate Tribunal", wherever they occur, the words "Appellate Tribunal" shall be substituted;

(b) in section 2, in sub-section (1),—

(i) after clause (d), the following clause shall be inserted, namely:—

' (da) "Appellate Tribunal" means the Appellate Tribunal referred to in sub-section (1) of section 48;'

(ii) clause (n) shall be omitted;

(c) in section 48,—

(i) for the marginal heading, the following marginal heading shall be substituted, namely:—

"APPELLATE TRIBUNAL";

(ii) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act."

- (iii) in sub-section (2), for the words, brackets and figure "shall also specify, in the notification referred to in sub-section (1)", the words "shall specify, by notification" shall be substituted;
- (d) sections 49, 50, 51, 52, 52A, 52B, 52C, 53, 54 and 56, shall be omitted;
- (e) for section 82, the following section shall be substituted, namely:—

Controller, Deputy Controller and Assistant Controller to be public servants

"82. The Controller, the Deputy Controller and the Assistant Controllers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.";

- (f) in section 84, for the words "the Chairperson, Members, adjudicating officers and the staff of the Cyber Appellate Tribunal", the words "and adjudicating officers" shall be substituted;
- (g) in section 87, in sub-section (2), clauses (r), (s) and (t) shall be omitted.

170. Amendment of Act 27 of 2008

In the Airports Economic Regulatory Authority of India Act, 2008,—

- (a) in the long title, the words "and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals" shall be omitted;

- (b) in section 2, for clause (d), the following clause shall be substituted, namely:—

'(d) "Appellate Tribunal" means the Telecom Disputes Settlement and Appellate Tribunal referred to in section 17;'

- (c) in section 17,—

(i) for the marginal heading, the following marginal heading shall be substituted, namely:—

"APPELLATE TRIBUNAL"

- (ii) for the portion beginning with the words "The Central Government" and ending with words "Appellate Tribunal", the words and figures "The Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act" shall be substituted;
- (d) sections 19, 20, 21, 22, 23, 24, 25, 26 and 27 shall be omitted;
- (e) in section 51, in sub-section (2), clauses (i), (j) and (k) shall be omitted.

H.—AMENDMENTS TO THE COMPETITION ACT, 2002  
AND THE COMPANIES ACT, 2013.

## 171. Amendment of Act 12 of 2003

In the Competition Act, 2002,—

- (a) in section 2, for clause (ba), the following clause shall be substituted, namely:—

'(ba) "Appellate Tribunal" means the National Company Law Appellate Tribunal referred to in sub-section (1) of section 53A;'

- (b) in Chapter VIII A, for the heading, the following heading shall be substituted, namely:—

"APPELLATE TRIBUNAL";

- (c) for section 53A, the following section shall be substituted, namely:—

Appellate Tribunal

"53A. The National Company Law Appellate Tribunal constituted under section 410 of the Companies Act, 2013 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall—

- (a) hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under sub-sections (2) and (6) of section 26, section 27, section 28, section 31, section 32, section 33, section 38, section 39, section 43, section 43A, section 44, section 45 or section 46 of this Act; and
- (b) adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the

Appellate Tribunal in an appeal against any finding of the Commission or under section 42A or under sub-section (2) of section 53Q of this Act, and pass orders for the recovery of compensation under section 53N of this Act.";

- (d) sections 53C, 53D, 53E, 53F, 53G, 53H, 53-I, 53J, 53K, 53L, 53M and 53R shall be omitted;
- (e) in section 63, in sub-section (2), clauses (mb), (mc) and (md) shall be omitted.

172. Amendment of Act 18 of 2013

In the Companies Act, 2013,—

- (a) in section 410, for the words "for hearing appeals against the orders of the Tribunal", the following shall be substituted, namely:—

"for hearing appeals against,—

- (a) the order of the Tribunal under this Act; and
- (b) any direction, decision or order referred to in section 53N of the Competition Act, 2002 in accordance with the provisions of that Act.";
- (b) after section 417, the following section shall be inserted, namely: —

Qualifications, terms and conditions of service of Chairperson and Member

"417A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson and other



Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

I.—AMENDMENT TO THE CINEMATOGRAPH ACT, 1952

173. Amendment of Act 37 of 1952

In the Cinematograph Act, 1952, after section 5D, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of chairman and member

"5E. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman and other members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman and member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if

the provisions of section 184 of the Finance Act, 2017 had not come into force."

J.—AMENDMENTS TO THE INCOME- TAX ACT, 1961

174. Amendment of Act 43 of 1961

In the Income Tax Act, 1962,— (a) after section 245-O, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairman,  
Vice-Chairman and Member

"245-OA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman, Vice-Chairman and other Members of the Authority appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman, Vice-Chairman and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.";

(b) after section 252, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of President,  
Vice-President and Member.

"252A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President, Vice-President and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.";

K.—AMENDMENT TO THE CUSTOMS ACT, 1962

175. Amendment of Act 52 of 1962

In the Customs Act, 1962, in section 129, after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President or other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President. Vice-President and Member appointed before the commencement of Part XIV of

Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

L.—AMENDMENT TO THE ADMINISTRATIVE TRIBUNALS ACT, 1985

176. Amendment of Act 13 of 1985

In the Administrative Tribunals Act, 1985, after section 10A, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairman and Member

"10B. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman and other Members of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

M.—AMENDMENT TO THE CONSUMER PROTECTION ACT, 1986

177. Amendment of Act 68 of 1986

In the Consumer Protection Act, 1986, after section 22D, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of President and Member

"22E. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President and other members of the National Commission appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President and member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

N. —AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

178. Amendment of Act 15 of 1992

In the Securities and Exchange Board of India Act, 1992, after section 15Q, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Presiding Officer and Member

"15QA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer and other Members of the Appellate Tribunal appointed after the

commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Presiding Officer and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

O.—AMENDMENTS TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

179. Amendment of Act 51 of 1993

In the Recovery of Debts due to Banks and Financial Institutions Act, 1993,—

- (a) after section 6, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Presiding Officer

"6A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Presiding Officer appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions

of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.";

- (b) after section 15, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson

"15A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the terms and conditions of service of the Chairperson of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

P.—AMENDMENT TO THE ELECTRICITY ACT, 2003

180. Amendment of Act 36 of 2003

In the Electricity Act, 2003, after section 47, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson and Member

"117A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and

allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

Q.—AMENDMENT TO THE ARMED FORCES  
TRIBUNAL ACT, 2007

181. Amendment of Act 55 of 2007

In the Armed Force Tribunal Act, 2007, after section 9, the following section shall be inserted, namely: —

Qualifications, terms and conditions of service of Chairperson and Member

"9A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of



the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

**R.—AMENDMENT TO THE NATIONAL GREEN TRIBUNAL ACT, 2010**

**182. Amendment of Act 19 of 2010**

In the National Green Tribunal Act, 2010, after section 10, the following section shall be inserted, namely:—

"10A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson, Judicial Member and Expert Member of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson, Judicial Member and Expert Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

**S. —CONDITIONS OF SERVICE OF CHAIRPERSON AND MEMBERS OF TRIBUNALS, APPELLATE TRIBUNALS AND OTHER AUTHORITIES**

**183. Application of section 184**

Notwithstanding anything to the contrary contained in the provisions of the Acts specified in column (3) of the Eighth

Schedule, on and from the appointed day, provisions of section 184 shall apply to 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 as specified in column (2) of the said Schedule:

Provided that the provisions of section 184 shall not apply to the Chairperson, Vice Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or, as the case may be, Member holding such office as such immediately before the appointed day.

184. Qualifications, appointment, terms and conditions of service, salary and allowances, etc. of Chairperson, Vice-Chairperson and Members, etc. of the Tribunal, Appellate Tribunal and other Authorities

- (1) The Central Government may, by notification, make rules to provide for qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and 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 as specified in column (2) of the Eighth Schedule:

Provided that the Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or other Authority shall hold office for such term as specified in the rules made by the Central Government but not exceeding five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided further that no Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member shall hold office as such after he has attained such age as specified in the rules made by the Central Government which shall not exceed,—

(a) in the case of Chairperson, Chairman or President, the age of seventy years;

(b) in the case of Vice-Chairperson, Vice-Chairman, Vice-President, Presiding Officer or any other Member, the age of sixty-seven years:

- (2) Neither the salary and allowances nor the other terms and conditions of service of 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 Authority may be varied to his disadvantage after his appointment.

T. —MISCELLANEOUS

185. Transitional provisions.

- (1) Any person appointed as the Chairperson or Chairman, President or Vice-Chairperson or Vice-Chairman, Vice-President or Presiding Officer or Member of the Tribunals, Appellate Tribunals, or as the case may be, other Authorities specified in column (2) of the Ninth Schedule and holding office as such immediately before the appointed day, shall on and from the appointed day, cease to hold such office and such Chairperson or Chairman, President, Vice-Chairperson or Vice-Chairman, Vice-President or Presiding officer or Member shall be entitled to claim compensation not exceeding three months' pay and

allowances for the premature termination of term of their office or of any contract of service.

- (2) The officers and other employees of the Tribunals, Appellate Tribunals and other Authorities specified in column (2) of the Ninth Schedule appointed on deputation, before the appointed day, shall, on and from the appointed day, stand reverted to their parent cadre, Ministry or Department.
- (3) Every officer or other employee of the Tribunal, Appellate Tribunal and other Authorities specified in column (2) of the Ninth Schedule employed on regular basis, by such Tribunal, Appellate Tribunal or other Authorities shall become, on and from the appointed day, the officer and other employee, of the corresponding Tribunal, Appellate Tribunal or other Authorities specified in column (3) of the said Schedule with same rights and privileges as to pension, gratuity and other like benefits as would have been admissible to him if he had continued to serve the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the said Schedule until his employment is duly terminated or until his remuneration, terms and conditions of employment are duly altered by such corresponding Tribunal, Appellate Tribunal or other Authorities, as the case may be, specified in column (3) of the Ninth Schedule or until the expiry of a period of one year from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of such Tribunal, Appellate Tribunal or other Authorities within such period.
- (4) Any appeal, application or proceeding pending before the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule, before the appointed day, shall stand transferred to the corresponding Tribunal, Appellate

Tribunal or other Authorities specified in column (3) of the said Schedule and the said Tribunal, Appellate Tribunal or other Authority shall, on and from the appointed day, deal with de novo or from the stage at which such appeal, application or proceeding stood before the date of their transfer and shall dispose them in accordance with the provisions of the Act specified in column (2) of the said Schedule.

- (5) The balance of all monies received by, or advanced to the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule and not spent by it before the appointed day, shall, on and from the appointed day, stand transferred to and vest in the Central Government which shall be utilised for the purposes stated in sub-section (7).
- (6) All property of whatever kind owned by, or vested in, the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule before the appointed day, shall stand transferred to, on and from the appointed day, and shall vest in the Central Government.
- (7) All liabilities and obligations of whatever kind incurred by the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule and subsisting immediately before the appointed day, shall, on and from the appointed day, be deemed to be the liabilities or obligations, as the case may be, of the corresponding Tribunal, Appellate Tribunal or other Authorities specified in column (3) of the Ninth Schedule; and any proceeding or cause of action, pending or existing immediately before the appointed day by or against the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule in relation to such liability or obligation may, on and from the appointed day, be continued or enforced by

or against the corresponding Tribunal, Appellate Tribunal or other Authority specified in column (3) of the Ninth Schedule.

186. General Power to make rules.

Without prejudice to any other power to make rules contained elsewhere in this Part, the Central Government may, by notification, make rules generally to carry out the provisions of this Part.

187. Power to amend Eighth Schedule

- (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may by notification published in the Official Gazette, amend the Eighth Schedule and thereupon the said Schedule shall be deemed to have been amended accordingly.
- (2) A copy of every notification issued under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is issued.

188. Rules to be laid before Parliament

Every rule made under this Part 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.

189. Removal of difficulties

- (1) If any difficulty arises in giving effect to the provisions of this Part, the Central Government, may by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Part as appear to it to be necessary or expedient for removing the difficulty.
- (2) No order under sub-section (1) shall be made after the expiry of three years from the appointed day.
- (3) Every order made under this section shall, as soon as may be after it is made, be laid before each Houses of Parliament.'.

THE EIGHTH SCHEDULE  
[See sections 183 and 184]

S.No.	Tribunal/Appellate Tribunal/Board/Authority	Acts
(1)	(2)	(3)
1	Industrial Tribunal constituted by the Central Government.	The Industrial Disputes Act, 1947 (14 of 1947)
2	Income-Tax Appellate Tribunal	The Income -Tax Act, 1961 (43 of 1961)
3	Customs, Excise and Service Tax Appellate Tribunal	The Customs Act, 1962 ( 52 of 1962)
4	Appellate Tribunal.	The Smugglers and Foreign Exchange Manipulators ( Forfeiture of Property) Act, 1976 (13 of 1976)
5	Central Administrative Tribunal	The Administrative Tribunals Act, 1985 (13 of 1985)
6	Railway Claims Tribunal	The Railway Claims Tribunal Act, 1987 (54 of 1987)
7	Securities Appellate Tribunal	The Securities and Exchange Board of India Act, 1992 ( 15 of 1992)
8	Debts Recovery Tribunal	The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993)
9	Debts Recovery Appellate Tribunal	The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993)
10	Airport Appellate	The Airport Authority of India



	Tribunal	Act, 1994 (55 of 1994)
11	Telecom Disputes Settlement and Appellate Tribunal	The Telecom Regulatory Authority of India Act, 1997 (24 of 1997)
12	Appellate Board	The Trade Marks Act, 1999 (47 of 1999)
13	National Company Law Appellate Tribunal	The Companies Act, 2013 (18 of 2013)
14	Authority for Advance Ruling	The Income Tax Act, 1961(43 of 1961)
15	Film Certification Appellate Tribunal	The Cinematograph Act, 1952 ( 37 of 1952)
16	National Consumer Disputes Redressal Commission	The Consumer Protection Act, 1986 ( 68 of 1986)
17	Appellate Tribunal for Electricity	The Electricity Act, 2003 (36 of 2003)
18	Armed Forces Tribunal	The Armed Forces Act, 2007 (55 of 2007)
19	National Green Tribunal	The National Green Tribunal Act, 2010 ( 19 of 2010).

THE NINTH SCHEDULE  
[See section 185]

Sl.No.	Tribunal/ Appellate Tribunal under the Acts	Tribunal/ Appellate Tribunal/ Authority to exercise the jurisdiction under the Acts.
(1)	(2)	(3)
1	The Employees Provident Fund Appellate Tribunal under the Employees Provident Funds and Miscellaneous Provisions Act, 1952.	The Industrial Tribunal constituted by the Central Government under the Industrial Disputes Act, 1947.
2	The Copyright Board under the Copyright Act, 1957.	The Intellectual Property Appellate Board under the Trade Marks Act, 1999.
3	The Railway Rates Tribunal under the Railways Act, 1989.	The Railway Claims Tribunal under the Railway Claims Tribunal Act, 1987.
4	The Appellate Tribunal for Foreign Exchange under the Foreign Exchange Management Act, 1999.	The Appellate Tribunal under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976.
5	The National Highways Tribunal under the Control of National Highways (Land and Traffic) Act, 2002.	The Airport Appellate Tribunal under the Airport Authority of India Act, 1994.
6	(A) The Cyber Appellate Tribunal under the Information Technology Act, 2000.	The Telecom Disputes Settlement and Appellate Tribunal

	(B) The Airports Economic Regulatory Authority Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008.	under the Telecom Regulatory Authority of India Act, 1997.
7	The Competition Appellate Tribunal under the Competition Act, 2002.	The National Company Law Appellate Tribunal under the Companies Act, 2013."

DR. G. NARAYANA RAJU,  
Secretary to the Govt. of India.

**TRUECOPY**

## ANNEXURE P-3

MINISTRY OF FINANCE  
(Department of Revenue)

NOTIFICATION  
New Delhi, the 1<sup>st</sup> June, 2017

G.S.R. 514(E).—In exercise of the powers conferred by section 184 of the Finance Act, 2017 (7 of 2017), the Central Government hereby makes the following rules, namely: -

1. **Short title, commencement and application.**—(1) These rules may be called the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017.
  - (2) They shall come into force on the date of their publication in the Official Gazette.
  - (3) These rules shall apply to the Chairman, Vice-Chairman, Chairperson, Vice- Chairperson, President, Vice- President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member, Member of the Tribunal, Appellate Tribunal or, as the case may be, Authority as specified in column (2) of the Eighth Schedule of the Finance Act, 2017 (7 of 2017).
2. **Definitions.**—In these rules, unless the context otherwise requires, -
  - (a) “Act” means an Act specified in column (3) of the Eighth Schedule of the Finance Act, 2017(7 of 2017);

- (b) “Accountant Member”, “Administrative Member”, “Judicial Member”, “Expert Member”, “Law Member”, “Revenue Member” or “Technical Member” means the Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member or Technical Member of the Tribunal, Appellate Tribunal or, as the case may be, Authority appointed under the corresponding provisions of the Act;
- (c) “Appellate Tribunal”, “Authority” or “Tribunal” has the same meaning as assigned to it in the corresponding provisions of the Act;
- (d) "Chairman" or “Chairperson” or “President” means the Chairman, Chairperson or President of the Tribunal, Appellate Tribunal or, as the case may be, Authority appointed under the corresponding provisions of the Act;
- (e) "Member" means the Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member or Technical Member and includes the Chairman, Vice-Chairman, Chairperson, Chairperson, Presiding Officer of the Security Appellate Tribunal, President or, as the case may be, Vice-President;
- (f) “Presiding Officer” means the Presiding Officer of the Security Appellate Tribunal appointed under section 15L of the Securities and Exchange Board of India Act, 1992 (15 of 1992), Presiding Officer of the Debt Recovery Tribunal appointed under sub-section (1) of section 4 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993) and Presiding Officer of the Industrial Tribunal appointed by the Central

Government under sub-section (1) of section 7A of the Industrial Disputes Act, 1947 (14 of 1947);

- (g) “Search-cum-Selection Committee” means the Search-cum-Selection Committee referred to in rule 4;
- (h) “Vice-Chairman” or “Vice-Chairperson” or “Vice-President” means the Vice-Chairman, the Vice-Chairperson or Vice-President of the Tribunal, Appellate Tribunal or, as the case may be, Authority;
- (i) words and expressions used herein and not defined but defined in the Act shall have the same meanings respectively assigned to them in the respective Acts.

3. **Qualifications for appointment of Member.**—The qualification for appointment of the Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice-President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member of the Tribunal, Appellate Tribunal or, as the case may be, Authority shall be such as specified in column (3) of the Schedule annexed to these rules.

4. **Method of recruitment.**—(1) The Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice-President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member of the Tribunal, Appellate Tribunal or, as the case may be, Authority shall be appointed by the Central Government on the recommendation of a Search-cum-Selection Committee specified in column (4) of the said Schedule in respect of the Tribunal, Appellate Tribunal

or, as the case may be, Authority specified in column (2) of the said Schedule.

- (2) The Secretary to the Government of India in the Ministry or Department under which the Tribunal, Appellate Tribunal or, as the case may be, Authority is constituted or established shall be the convener of the Search-cum –Selection Committee.
  - (3) The Search-cum-Selection Committee shall determine its procedure for making its recommendation.
  - (4) No appointment of Chairman, Chairperson, President, Vice-Chairman, Vice- Chairperson, Vice- President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member of the Tribunal, Appellate Tribunal or Authorities shall be invalid merely by reason of any vacancy or absence in the Search-cum-Selection Committee.
  - (5) Nothing in this rule shall apply to the appointment of Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice-President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member of the Tribunal, Appellate Tribunal or, as the case may be, Authority functioning as such immediately before the commencement of these rules.
5. **Medical fitness.**—No person shall be appointed as the Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice- President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member of the Tribunal, Appellate Tribunal or Authority, or a

case may be unless he is declared medically fit by an authority specified by the Central Government in this behalf.

6. **Resignation by a Member.**—A Member may, by writing under his hand addressed to the Central Government, resign his office at any time:

Provided that the Member shall, unless he is permitted by the Central Government to relinquish 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 a successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

7. **Removal of Member from office.**—The Central Government may, on the recommendation of a Committee constituted by it in this behalf, remove from office any Member, who—

- (a) has been adjudged as an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such a Member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that where a Member is proposed to be removed on any ground specified in clauses (b) to (e), the Member shall be informed of the charges against him and given an opportunity of being heard in respect of those charges:



Provided further that the Chairperson or member of the National Company Appellate Tribunal shall be removed from office in consultation with the Chief Justice of India.

**8. Procedure for inquiry of misbehavior or incapacity of the Member.—**

- (1) If a written complaint is received by the Central Government, alleging any definite charge of misbehavior or incapacity to perform the functions of the office in respect of a Chairman, Vice-Chairman, Chairperson, Vice-Chairperson, President, Vice-President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member, the Ministry or Department of the Government of India under which the Tribunal, Appellate Tribunal or, as the case may be, Authority is constituted or established, shall make a preliminary scrutiny of such complaint.
- (2) If on preliminary scrutiny, the Ministry or Department of the Government of India under which the Tribunal, Appellate Tribunal or, as the case may be, Authority is constituted or established, is of the opinion that there are reasonable grounds for making an inquiry into the truth of any misbehavior or incapacity of a Chairman, Vice-Chairman, Chairperson, Vice-Chairperson, President, Vice-President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member, it shall make a reference to the Committee constituted under rule 7 to conduct the inquiry.
- (3) The Committee shall complete the inquiry within such time or such further time as may be specified by the Central Government.

- (4) After the conclusion of the inquiry, the Committee shall submit its report to the Central Government stating therein its findings and the reasons therefor on each of the charges separately with such observations on the whole case as it may think fit.
- (5) The Committee shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and shall have power to regulate its own procedure, including the fixing of date, place and time of its inquiry.
9. **Term of office of Member.**—Save as otherwise provided in these rules, the Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or, as the case may be, Member shall hold office for a term as specified in column (5) of the said Schedule and shall hold the office up to such age as specified in column (6) in the said Schedule from the date on which he enters upon his office and shall be eligible for reappointment.
10. **Casual vacancy.**—(1) In case of a casual vacancy in the office of,—
- (a) the Chairman, Chairperson, President, or Presiding Officer of the Security Appellate Tribunal, the Central Government shall have the power to appoint the senior most Vice-Chairperson or Vice-Chairman, Vice-President or in his absence, one of the Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member, or Member of the Tribunal, Appellate Tribunal or, as

the case may be, Authority to officiate as Chairperson, Chairman, President or Presiding Officer.

- (b) the Chairperson of the Debts Recovery Appellate Tribunal, the Central Government shall have power to appoint the Chairperson of another Debts Recovery Appellate Tribunal to officiate as Chairperson and in case of a casual vacancy in the office of the Presiding Officer of the Debts Recovery Tribunal, the Chairperson of the Debts Recovery Appellate Tribunal shall have power to appoint the Presiding Officer of another Debts Recovery Appellate Tribunal to officiate as Presiding Officer.

11. **Salary and allowances.**—(1) The Chairman, Chairperson or President of the Tribunal, Appellate Tribunal or, as the case may be, Authority or the Presiding Officer of the Security Appellate Tribunal shall be paid a salary of Rs. 2,50,000 (fixed) and other allowances and benefits as are admissible to a Central Government officer holding posts carrying the same pay.

- (2) The Vice-Chairman, Vice-Chairperson, Vice-President, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or, as the case may be, Member shall be paid a salary of Rs. 2,25,000 and shall be entitled to draw allowances as are admissible to a Government of India Officer holding Group 'A' post carrying the same pay.

- (3) A Presiding Officer of the Debt Recovery Tribunal or a Presiding Officer of the Industrial Tribunal constituted by the Central Government shall be paid a salary of Rs.1,44,200 – 2,18,200 and shall be entitled to draw allowances as are admissible to a Government of India officer holding Group 'A' post carrying the same pay.

(4) In case of a person appointed as the Chairman, Chairperson, President, Vice-Chairman, Vice- Chairperson, Vice President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member, as the case may be, is in receipt of any pension, the pay of such person shall be reduced by the gross amount of pension drawn by him.

12. Pension, Gratuity and Provident Fund.—(1) In case of a serving Judge of the Supreme Court, a High Court or a serving Judicial Member of the Tribunal or a member of the Indian Legal Service or a member of an organised Service appointed to the post of the Chairperson, Chairman, President or Presiding Officer of the Security Appellate Tribunal , the service rendered in the Tribunal, Appellate Tribunal or, as the case may be, Authority shall count for pension to be drawn in accordance with the rules of the service to which he belongs and he shall be governed by the provisions of the General Provident Fund (Central Services) Rules, 1960 and the Contribution Pension System.

(2) In all other cases, the Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member shall be governed by the provisions of the Contributory Provident Fund (India) Rules, 1962 and the Contribution Pension System.

(3) Additional pension and gratuity shall not be admissible for service rendered in the Tribunal, Appellate Tribunal or, as the case may be, Authority.

13 **Leave.**—(1) The Chairman, Chairperson, President, Vice-Chairman, Vice- Chairperson, Vice President, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member,

Presiding Officer or a Member shall be entitled to thirty days of earned Leave for every year of service.

- (2) Casual Leave not exceeding eight days may be granted to the Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice President, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member or Technical Member, Presiding Officer or a Member in a calendar year.
- (3) The payment of leave salary during leave shall be governed by rule 40 of the Central Civil Services (Leave) Rules, 1972.
- (4) The Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member shall be entitled to encashment of leave in respect of the earned Leave standing to his credit, subject to the condition that maximum leave encashment, including the amount received at the time of retirement from previous service shall not in any case exceed the prescribed limit under the Central Civil Service (Leave) Rules, 1972.

14. **Leave sanctioning authority.**—(1) Leave sanctioning authority,—

- (a) for the Vice-Chairman, Vice-Chairperson, Vice-President, Presiding Officer of the Debts Recovery Tribunal and Industrial Tribunal, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member shall be Chairman, Chairperson or as the case may be, President; and

(b) for the Chairman, Chairperson, Presiding Officer of Security Appellate Tribunal or President, shall be the Central Government, who shall also be sanctioning authority for Accountant Member, Administrative Member, Judicial Member, Expert Member or Member in case of absence of Chairman, Chairperson, Presiding Officer of Security Appellate Tribunal or President.

(2) The Central Government shall be the sanctioning authority for foreign travel to the Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice-President, Accountant Member, Administrative Member, Judicial Member, Expert Member, Technical Member, Presiding Officer or a Member.

15. **House rent allowance.**—The Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Technical Member or Member shall be entitled to house rent allowance at the same rate as are admissible to Group ‘A’ Officer of the Government of India of a corresponding status.

16. **Transport allowance.**—The Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice-President, Accountant Member, Administrative Member, Judicial Member, Expert Member, Technical Member, Presiding Officer or Member shall be entitled to the facility of staff car for journeys for official and private purposes in accordance with the facilities as are admissible to Group ‘A’ Officer of the Government of India of a corresponding status as per the provisions of Staff Car Rules.

17. **Declaration of Financial and other Interests.**—The Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice-President, Accountant Member, Administrative Member, Judicial

Member, Expert Member, Technical Member, Presiding Officer or Member shall, before entering upon his office, declare his assets, and his liabilities and financial and other interests.

18. **Other conditions of service.**—(1) The terms and conditions of service of a Chairman, Chairperson, President, Vice-Chairman, Vice- Chairperson, Vice- President, Accountant Member, Administrative Member, Judicial Member, Expert Member, Technical Member, Presiding Officer or Member with respect to which no express provision has been made in these rules, shall be such as are admissible to a Group ‘A’ Officer of the Government of India of a corresponding status.
- (2) The Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice- President, Administrative Member, Judicial Member, Expert Member, Technical Member, Presiding Officer or Member shall not practice before the Tribunal, Appellate Tribunal or Authority after retirement from the service of that Tribunal, Appellate Tribunal or, as the case may be, Authority.
- (3) The Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice- President, Accountant Member, Administrative Member, Judicial Member, Expert Member, Technical Member, Presiding Officer or Member shall not undertake any arbitration work while functioning in these capacities in the Tribunal, Appellate Tribunal or Authority.
- (4) The Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice- President, Presiding Officer, Accountant Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member, Technical Member or Member of the Tribunal, Appellate Tribunal or, as the case may be, Authority shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or

connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal, Appellate Tribunal or, as the case may be, Authority:

Provided that nothing contained in this rule shall apply to any employment under the Central Government or a State Government or a local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013).

19. **Oaths of office and secrecy.**—Every person appointed to be the Chairman, Chairperson, President, Vice-Chairman, Vice-Chairperson, Vice-President, Accountant Member, Administrative Member, Judicial Member, Expert Member, Technical Member, Presiding Officer or Member shall, before entering upon his office, make and subscribe an oath of office and secrecy in Forms I and II annexed to these rules.
20. **Power to relax.**—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.
21. **Interpretation.**—If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.
22. **Saving.**—Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, Scheduled Tribes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.



**FORM I**  
(See rule 19)

Form of Oath of Office for Chairman/Vice-Chairman/ Chairperson/  
Vice-Chairperson/ President/Vice-President/ Presiding  
Officer/Administrative Member/Judicial Member/ Expert Member/Law  
Member/Revenue Member/Technical Member, /Member of the (Name  
of the Tribunal/Appellate Tribunal/Authority)

I, A. B., having been appointed as Chairman/Vice-Chairman/  
Chairperson/ Vice-Chairperson/ President/Vice-President/ Presiding  
Officer/ Accountant Member/ Administrative Member, Judicial  
Member/ Expert Member / Law Member/ Revenue Member/ Technical  
Member/ Member of the (Name of the Tribunal/Appellate  
Tribunal/Authority)

do solemnly affirm/do swear in the name of God that I will faithfully  
and conscientiously discharge my duties as the Chairman/Vice-  
Chairman/ Chairperson/ Vice-Chairperson/ President/Vice-President/  
Presiding Officer/ Accountant Member/ Administrative Member/  
Judicial Member/ Expert Member / Law Member/ Revenue Member/  
Technical Member/ Member (Name of the Tribunal/Appellate  
Tribunal/Authority) to the best of my ability, knowledge and judgment,  
without fear or favour, affection or ill-will and that I will uphold the  
Constitution and the laws of land.

**FORM II**  
(See rule 19)

Form of Oath of Secrecy for Chairman/Vice-Chairman/ Chairperson/  
Vice-Chairperson/ President/Vice-President/ Presiding Officer /  
Accountant Member/ Administrative Member/ Judicial Member/  
Expert Member / Law Member/ Revenue Member/ Technical Member  
/Member of the (Name of Tribunal/Appellate Tribunal/Authority

I, A. B., having been appointed as the Chairman/Vice-Chairman/  
Chairperson/ Vice-Chairperson/ President/Vice-President/ Presiding  
Officer/Member of the(Name of Tribunal/Appellate  
Tribunal/Authority), do solemnly affirm/do swear in the name of God  
that I will not directly or indirectly communicate or reveal to any  
person or persons any matter which shall be brought under my  
consideration or shall become known to me as Chairman/Vice-  
Chairman/ Chairperson/ Vice-Chairperson/ President/Vice-President/  
Presiding Officer / Accountant Member/ Administrative Member,  
Judicial Member/ Expert Member / Law Member/ Revenue Member/  
Technical Member /Member of the said (Name of Tribunal/Appellate  
Tribunal/Authority) except as may be required for the due discharge of  
my duties as the Chairman/Vice-Chairman/ Chairperson/ Vice-  
Chairperson/ President/Vice-President/ Presiding Officer/Member.