

Railways Act, 1989

Chapter 7 - Railway Rates Tribunal

(1) There shall be a Tribunal, to be called the Railway Rates Tribunal, for the purpose of discharging the functions specified in this Chapter.

(2) The Tribunal shall consist of a Chairman and two other members to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the Chairman of the Tribunal unless he is, or has been, a Judge of the Supreme Court or of a High Court and of the other two members, one shall be a person, who, in the opinion of the Central Government, has special knowledge of the commercial, industrial or economic conditions of the country, and the other shall be a person, who, in the opinion of the Central Government, has special knowledge and experience of the commercial working of the railways.

(4) The Chairman and the other members of the Tribunal shall hold office for such period, not exceeding five years, as may be prescribed.

(5) In case the Chairman or any other member is, by infirmity or otherwise, rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Central Government may appoint another person to act in his place during his absence.

(6) A person who holds office as the Chairman or other member of the Tribunal shall, on the expiration of the term of his office (not being an office to fill a casual vacancy), be ineligible for re-appointment to that office.

(7) Subject to the provisions of sub-sections (5) and (6), the Chairman and other members of the Tribunal shall hold office on such terms and conditions as may be prescribed.

(8) No act or proceeding of the Tribunal shall be invalidated merely by reason of--

- (a) any vacancy in, or any defect in the constitution of, the Tribunal; or
 - (b) any defect in the appointment of a person acting as a Chairman or other member of the Tribunal.
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Section 34 - Staff of the Tribunal

(1) The Tribunal may, with the previous approval of the Central Government, appoint such officers and employees as it considers necessary for the efficient discharge of its functions under this Chapter.

(2) The terms and conditions of service of the officers and employees of the Tribunal shall be such as may be determined by regulations.

Section 35 - Sittings of the Tribunal

The Tribunal may sit at such place or places as it may find convenient for the transaction of its business.

Section 36 - Complaints against a railway administration

Any complaint that a railway administration--

- (a) is contravening the provisions of section 70; or
- (b) is charging for the carriage of any commodity between two stations at a rate which is unreasonable; or
- (c) is levying any other charge which is unreasonable,

may be made to the Tribunal, and the Tribunal shall hear and decide any such complaint in accordance with the provisions of this Chapter.

Section 37 - Matters not within the jurisdiction of the Tribunal

Nothing in this Chapter shall confer jurisdiction on the Tribunal in respect of--

- (a) classification or re-classification of any commodity;
 - (b) fixation of wharfage and demurrage charges (including conditions attached to such charges);
 - (c) fixation of fares levied for the carriage of passengers and freight levied for the carriage of luggage, parcels, railway material and military traffic; and
 - (d) fixation of lump sum rates.
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Section 38 - Powers of the Tribunal

(1) The Tribunal shall have the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents, issuing commissions for the examination of witnesses and of review and shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1973 (2 of 1974) and any reference in such section or Chapter to the presiding officer of a court shall be deemed to include a reference to the Chairman of the Tribunal.

(2) The Tribunal shall also have power to pass such interim and final orders as the circumstances may require, including orders for the payment of costs.

Section 39 - Reference to the Tribunal

Notwithstanding anything contained in section 37, the Central Government may make a reference to the Tribunal in respect of any of the matter specified in that section and where any such reference is made in respect of any such matter, the Tribunal shall make an inquiry into that matter and submit its report thereon to the Central Government.

Section 40 - Assistance by the Central Government

(1) The Central Government shall give to the Tribunal such assistance as it may require and shall also place at its disposal any information in the possession of the Central Government which that Government may think relevant to any matter before the Tribunal.

(2) Any person duly authorised in this behalf by the Central Government shall be entitled to appear and be heard in any proceedings before the Tribunal.

Section 41 - Burden of proof, etc.

In the case of any complaint under clause (a) of section 36,--

(a) whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area, lower rates for the same or similar goods or lower charges for the same or similar services than it charges to other traders in any other local area, the burden of proving that such lower rate or charge does not amount to an undue preference, shall lie on the railway administration;

(b) in deciding whether a lower rate or charge does not amount to an undue preference, the Tribunal may, in addition to any other considerations affecting the case, take into consideration whether such lower rate or charge is necessary in the interests of the public.

Section 42 - Decision, etc., of the Tribunal

The decisions or orders of the Tribunal shall be by a majority of the members sitting and shall be final.

Section 43 - Bar of jurisdiction of courts

No suit shall be instituted or proceeding taken in respect of any matter which the Tribunal is empowered to deal with, or decide, under this Chapter.

Section 44 - Reliefs which the Tribunal may grant

In the case of any complaint made under clause (b) or clause (c) of section 36, the Tribunal may--

(i) fix such rate or charge as it considers reasonable from any date as it may deem proper, not being a date earlier to the date of the filing of the complaint;

(ii) direct a refund of amount, if any, as being the excess of the rate or charge fixed by the Tribunal under clause (i).

Section 45 - Revision of decisions given by the Tribunal

Where a Railway Administration considers that since the date of decision by the Tribunal, there has been a material change in the circumstances on which it was based, it may, after the expiry of one year from such date, make an application to the Tribunal and the Tribunal may, after making such inquiry as it considers necessary, vary or revoke the decision.

Section 46 - Execution of decisions or orders of the Tribunal

The Tribunal may transmit any decision or order made by it to a civil court having local jurisdiction and such civil court shall execute the decision or order as if it were a decree made by that court.

Section 47 - Report to the Central Government

The Tribunal shall present annually a report to the Central Government of all its proceedings under this Chapter.

Section 48 - Power of the Tribunal to make regulations

(1) The Tribunal may, with the previous approval of the Central Government, make regulations consistent with this Act and rules generally to regulate its procedure for the effective discharge of its functions under this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:--

- (a) the terms and conditions of service of the officers and employees of the Tribunal;
 - (b) the award of costs by the Tribunal in any proceedings before it;
 - (c) the reference of any question to a member or to an officer of the Tribunal or any other person appointed by the Tribunal, for report after holding a local inquiry;
 - (d) the right of audience before the Tribunal, provided that any party shall be entitled to be heard in person, or by a representative duly authorised in writing, or by a legal practitioner;
 - (e) the disposal by the Tribunal of any proceedings before it, notwithstanding that in the course thereof there has been a change in the persons sitting as members of the Tribunal;
 - (f) a scale of fees for and in connection with the proceedings before the Tribunal.
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