

Armed Forces Tribunal Act 2007

Chapter IV - Procedure

(1) The Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of the remedies available to him under the Army Act, 1950(46 of 1950) or the Navy Act, 1957(62 of 1957) or the Air Force Act, 1950(45 of 1950), as the case may be, and respective rules and regulations made thereunder.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the Army Act, 1950(46 of 1950) or the Navy Act, 1957(62 of 1957) or the Air Force Act, 1950(45 of 1950), and respective rules and regulations--

(a) if a final order has been made by the Central Government or other authority or officer or other person competent to pass such order under the said Acts, rules and regulations, rejecting any petition preferred or representation made by such person;

(b) where no final order has been made by the Central Government or other authority or officer or other person competent to pass such order with regard to the petition preferred or representation made by such person, if a period of six months from the date on which such petition was preferred or representation was made has expired.

Section 22 - Limitation

The Tribunal shall not admit an application--

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 21 has been made unless the application is made within six months from the date on which such final order has been made;

(b) in a case where a petition or a representation such as is mentioned in clause (b) of sub-section (2) of section 21 has been made and the period of six months has expired thereafter without such final order having been made;

(c) in a case where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which jurisdiction, powers and authority of the Tribunal became exercisable under this Act, in respect of the matter to which such order relates and no proceedings for the redressal of such grievance had been commenced before the said date before the High Court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may admit an application after the period of six months referred to in clause (a) or clause (b) of sub-section (1), as the case may

be, or prior to the period of three years specified in clause (c), if the Tribunal is satisfied that the applicant had sufficient cause for not making the application within such period.

Section 23 - Procedure and power of the Tribunal

(1) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908(5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and any rules made thereunder, the Tribunal shall have the power to lay down and regulate its own procedure including the fixing of place and time of its inquiry and deciding whether to sit in public or in camera.

(2) The Tribunal shall decide every application made to it as expeditiously as possible after a perusal of documents, affidavits and written representations and after hearing such oral arguments as may be advanced:

Provided that where the Tribunal deems it necessary, for reasons to be recorded in writing, it may allow oral evidence to be adduced.

(3) No adjournment shall be granted by the Tribunal without recording the reasons justifying the grant of such adjournment and cost shall be awarded, if a party requests for adjournment more than twice.

Section 25 - Term of sentence and its effect on appeal

(1) The term of any sentence passed by the Tribunal under clause (a) of sub-section (6) of section 15 of this Act shall, unless the Tribunal otherwise directs, be reckoned to commence on the day on which it would have commenced under the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, under which the court martial against which the appeal was filed, had been held.

(2) Subject to the provisions of sub-section (3), any sentence passed on an appeal from the Tribunal to the Supreme Court in substitution for another sentence shall, unless the Supreme Court otherwise directs, be reckoned to commence on the day on which the original sentence would have commenced.

(3) Where a person who is undergoing sentence is granted stay of the operation of the said sentence, either by suspension or otherwise, pending an appeal, the period during which he is so released due to the sentence having been so stayed, shall be excluded in computing the term for which he is so sentenced by the Tribunal or the Supreme Court, as the case may be.

25. Right of application or of appellant to take assistance of a legal practitioner and of Government, etc., to appoint counsel

(1) A person making an application or preferring an appeal to the Tribunal may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or the competent authority, as may be prescribed, may authorise one or more legal practitioners or any of its law officers to act as counsel and every person so authorised by

it may present its case with respect to any application or appeal, as the case may be, before the Tribunal.

Section 26 - Condition as to make of interim order

(1) Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on an application or appeal, or in any proceeding relating thereto, unless,--

(a) copies of such application or appeal, as the case may be, and all documents in support of the plea for such interim order are furnished to the party against whom such application or appeal, as the case may be, is made or proposed to be made; and

(b) opportunity of being heard is given to the other party in the matter:

Provided that the Tribunal may dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant or to the appellant, as the case may be.

(2) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on an application or appeal or in any proceeding relating thereto under subsection (1), without--

(a) furnishing to such party copies of such application or appeal, as the case may be, and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, and making an application to the Tribunal for the vacation of such order and furnishing a copy of such application or appeal, as the case may be, to the party in whose favour such order has been made or the counsel of such party,

the Tribunal shall dispose of the application within a period of fourteen days from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the Tribunal is closed on the last day of that period, before the expiry of the next working day; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next working day, stand vacated.

Section 27 - Power of Chairperson to transfer cases from one Bench to another

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

Section 28 - Decision to be by majority

If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard the case, including those who first heard it.

Section 29 - Execution of order of Tribunal

Subject to the other provisions of this Act and the rules made thereunder, the order of the Tribunal disposing of an application shall be final and shall not be called in question in any Court and such order shall be executed accordingly.