

Armed Forces Tribunal Act 2007

Chapter VI - Miscellaneous

On and from the date from which any jurisdiction, powers and authority becomes exercisable by the Tribunal in relation to service matters under this Act, no Civil Court shall have, or be entitled to exercise, such jurisdiction, power or authority in relation to those service matters.

Section 34 - Transfer of pending cases

(1) Every suit, or other proceeding pending before any court including a High Court or other authority immediately before the date of establishment of the Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based, is such that it would have been within the jurisdiction of the Tribunal, if it had arisen after such establishment within the jurisdiction of such Tribunal, stand transferred on that date to such Tribunal.

(2) Where any suit, or other proceeding stands transferred from any court including a High Court or other authority to the Tribunal under sub-section (1),---

(a) the court or other authority shall, as soon as may be, after such transfer, forward the records of such suit, or other proceeding to the Tribunal;

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit, or other proceeding, so far as may be, in the same manner as in the case of an application made under sub-section (2) of section 14, from the stage which was reached before such transfer or from any earlier stage or de novo as the Tribunal may deem fit.

Section 35 - Provision for filing of certain appeals

Where any decree or order has been made or passed by any court (other than a High Court) or any other authority in any suit or proceeding before the establishment of the Tribunal, being a suit or proceeding the cause of action whereon it is based, is such that it would have been, if it had arisen after such establishment, within the jurisdiction of the Tribunal, and no appeal has been preferred against such decree or order before such establishment or if preferred, the same is pending for disposal before any court including High Court and the time for preferring such appeal under any law for the time being in force had not expired before such establishment, such appeal shall lie to the Tribunal, within ninety days from the date on which the Tribunal is established, or within ninety days from the date of receipt of the copy of such decree or order, whichever is later.

Section 36 - Proceeding before Tribunal to be Judicial Proceedings

All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Section 37 - Members and staff of tribunal to be public servants

The Chairperson, other Members and the officers and other employees provided under section 13 to the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code(45 of 1860).

Section 38 - Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson or any other Member or any other person authorised by the Chairperson, for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made thereunder in the discharge of official duties.

Section 39 - Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Section 40 - Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Section 41 - Power of Central Government to make rules

(1) The Central Government may, by notification, make rules for the purposes of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the case or cases which shall be decided by a Bench composed of more than two Members under clause (c) of sub-section (3) of section 5;

- (b) the procedure under sub-section (3) of section 9 for the investigation of misbehaviour or incapacity of Chairperson or other Member;
- (c) the salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and other Members under section 10;
- (d) the financial and administrative powers which the Chairperson may exercise over the Benches of the Tribunal under section 12;
- (e) the salaries and allowances payable to, and other terms and conditions of service of the officers and other employees of the Tribunal under sub-section (2) of section 13;
- (f) the form in which an application may be made under sub-section (2) of section 14, the documents and other evidence by which such application shall be accompanied and the fee payable in respect of the filing of such application or for the service of execution of processes;
- (g) the other matter which may be prescribed under clause (i) of sub-section (4) of section 14;
- (h) the form and manner in which an appeal may be filed, the fee payable thereon and the time within which such appeal may be filed under sub-section (2) of section 15;
- (i) the rules subject to which the Tribunal shall have power to regulate its own procedure under sub-section (1) of section 23;
- (j) competent authority who may authorise legal practitioners or law officers to act as counsel under sub-section (2) of section 25;
- (k) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

Section 42 - Power to make rules retrospectively

The powers to make rules under section 41 shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act shall come into operation but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.

Section 43 - Laying of rules

Every rule made under this Act 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.

