

DRAFT RULES UNDER COMPANIES ACT, 2013

National Company law Appellate Tribunal (Salaries and Allowances and other Terms and Conditions of Service of the Chairperson and other Members) Rules, 2013

In exercise of the powers conferred by section 414 read with sub-section (2) of section 469 of the Companies Act, 2013 (of 2013) the Central Government hereby makes the following rules, namely:-

1. Short title and commencement:-

(1) These rules may be called the National Company Law Appellate Tribunal (Salaries and Allowances and other terms and conditions of service of the Chairperson and other Members) Rules, 2013.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:-

(1) In these rules, unless the context otherwise requires, -

(a) 'Act' means the Companies Act, 2013 (of 2013);

(b) 'Chairperson' means the Chairperson of the Appellate Tribunal appointed under sub-section (1) of section 412 of the Act;

(2) Words and expressions used in these rules and not defined, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Salary, allowances, etc. of the Chairperson:-

(a) When a serving or a retired Judge of the Supreme Court, is appointed as Chairperson, he shall be entitled to a monthly salary, and to such allowances and other benefits, as are admissible to a serving Judge of the Supreme Court.

(b) When a serving or a retired Chief Justice of a High Court, is appointed as Chairperson, shall be entitled to a monthly salary and to such allowances and other benefits as are admissible to a serving Chief Justice of the High Court of the Headquarter station of the Appellate Tribunal.

Provided that in case the retired Judge of the Supreme Court or the retired Chief Justice of a High Court, is in receipt of, or has received or has become entitled to receive any retirement benefits by way of pension, gratuity, employers contribution to the Contributory Provident Fund or other forms of retirement benefits, the pay of such Chairperson shall be reduced by the gross amount of pension or employers contribution to the Contributory Provident Fund or any other form of retirement benefits, if any (except pension equivalent of gratuity), drawn or to be drawn by him.

4. Other conditions of service of Chairperson:-

(1) In case of serving or retired Judge of the Supreme Court or serving or retired Chief Justice of a High Court is appointed to the Appellate Tribunal, the conditions of service of Chairperson for which no provision is made in these rules shall be governed by the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958), Supreme Court Judges (Travelling Allowance) Rules, 1959 and any other rules made under that Act, or the High Court Judges Act, 1954 (28 of 1954), High Court Judges (Travelling Allowance) Rules, 1956 and any other rule made under that Act, as the case may be.

(2) In case of serving or retired Judge of the High Court is appointed as Member of the Appellate Tribunal, the conditions of service of Member for which no provision is made in these rules shall be governed by the High Court Judges Act, 1954 (28 of 1954), High Court Judges (Travelling Allowance) Rules, 1956 and any other rule made under that Act.

5. Salary of Member:-

(1) (a) Every Judicial Member shall be entitled to a monthly salary and to such allowances and other benefits as are admissible to a serving Judge of the High Court of the Headquarter station of the Appellate Tribunal.

(b) every Technical Member shall be paid a salary of eighty thousand rupees (fixed) per mensem.

Provided that in case of appointment of a person as a Member who has retired from the service under the Central Government or a State Government or any local body or authority owned or controlled by the Central Government or State Government or the Supreme Court or a High Court, as the case may be, who is in receipt of, or has received or has become entitled to received any retirement benefits by way of pension, gratuity, employers contribution to the Contributory Provident Fund or other forms of retirement benefits, the pay of such Member shall be reduced by the gross amount of pension or employers contributions to the Contributory Provident Fund or any other form of retirement benefits, if any (except pension equivalent to gratuity), drawn or to be drawn by him.

6. Dearness Allowance and other Allowances:-

(1) The Chairperson who is or has been a Judge of the Supreme Court or Chief Justice of a High Court shall receive dearness allowance at the rate admissible to a Judge of the Supreme Court or the Chief Justice of the High

Court of the headquarter station of the Appellate Tribunal, as the case may be, as per orders issued by the concerned Courts from time to time.

(2) (a) The Judicial Member shall receive dearness allowance and other allowances at the rates admissible to a Judge of the High Court of the Headquarter station of the Appellate Tribunal as per orders issued by it from time to time.

(b) The Technical Member shall receive dearness allowance and other allowances at the rates admissible to a Group 'A' Officer of the Central Government drawing an equivalent pay.

7. Leave:-

(1) The grant of leave to Chairperson and Members of the Appellate Tribunal shall be governed as under:-

(i) Chairperson : A serving or retired Judge of the Supreme Court or Chief Justice of a High Court appointed as Chairperson shall continue to be governed in matters relating to his rights in respect of leave by the provisions of the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958), or, as the case may be, the High Court Judges (Conditions of Service) Act, 1954 (28 of 1954), and the rules made thereunder:

(ii) Member : (1)(a) The Judicial Member shall be governed in the matters relating to his rights in respect of leave by the provisions of the High Court Judges (Conditions of Service) Act, 1954 (28 of 1954), and the rules made thereunder.

(b)The Technical Member shall be governed in the matters relating to his rights in respect of leave by the Central Civil Services (Leave) Rules, 1972.

(2) The payment of leave salary to the persons appointed as Chairpersons after their retirement from the Supreme Court or the High Court and Members during leave shall be governed by rule 40 of the Central Civil Services (Leave) Rules, 1972.

(3) The Chairperson and Members 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 received at the time of retirement from previous service shall not in any case exceed the prescribed limit of 300 days.

8. Leave sanctioning authority:-

In the case of the Chairperson, the Minister in charge of the Ministry of Corporate Affairs, and in the case of a Member, the Chairperson, shall be the leave sanctioning authority.

9. Pension:-

The Chairperson and a Member shall have the option either to be governed by New Pension Scheme or annuitization or complete withdrawal of the corpus plus accretion.

10. Travelling Allowance:-

When a serving or retired Judge of the Supreme Court or Chief Justice of a High Court is appointed to the Appellate Tribunal as Chairperson he while on tour or on transfer (including the journey undertaken to join Appellate Tribunal or on the expiry of his term with the Appellate Tribunal to proceed

to his home town) shall be entitled to travelling allowance, daily allowances, transportation of personal effects and other similar matters at the same scale and at the same rates as are applicable to Supreme Court Judge or Chief Justice of High Courts as per orders issued by the concerned Courts from time to time.

In case of Judicial Member of Appellate Tribunal, while on tour or on transfer (including the journey undertaken to join Appellate Tribunal or on the expiry of his term with the Appellate Tribunal to proceed to his home town) shall be entitled to travelling allowance, daily allowances, transportation of personal effects and other similar matters at the same scale and at the same rates as are applicable to Judge of High Court and in case of Technical Member at the same rates as are applicable to Group 'A' Officers of the Central Government drawing an equivalent pay.

11. Leave Travel Concession:-

(a) When a serving or retired Judge of the Supreme Court or Chief Justice of a High Court is appointed as Chairperson, he shall be entitled to Leave Travel Concession as is admissible to a serving Judge of the Supreme Court or Chief Justice of a High Court, as the case may be;

(b)The Judicial Member of Appellate Tribunal shall be entitled to Leave Travel Concession for self and family as admissible to re-employed pensioners and the entitlement will be as applicable to the Judge of High Court

(c) The Technical Members of Appellate Tribunal shall be entitled to Leave Travel Concession for self and family as admissible to re-employed prisoners and the entitlement will be that of the highest grade in the Central Government.

12. Facilities of Medical Treatment:-

The Chairperson and Members of Appellate Tribunal shall, while in service be entitled to medical treatment and hospital facilities as provided in the Contributory Health Services Rules, 1954 and in places where Central Health Services Scheme is not in operation, the said Chairperson and Member shall be entitled to the facilities as provided in the Central Services (Medical Attendance) Rules, 1944.

13. Transport:-

The Chairperson shall be entitled for conveyance facilities as admissible to serving Judge of a Supreme Court or Chief Justice of a High Court as the case may be. A Judicial Member shall be entitled for conveyance facilities as are admissible to serving Judge of a High Court. A Technical Member shall be entitled for conveyance facilities as are admissible to Group 'A' officer of the Central Government drawing an equivalent pay.

14. Accommodation:-

The Chairperson and Members of the Appellate Tribunal shall be entitled for General Pool Residential Accommodation. If they do not avail the accommodation facilities, they shall be entitled for House Rent Allowance as is admissible to Group 'A' officer of the Central Government or State Government drawing an equivalent pay.

15. Official visits abroad:-

(1) Official visits abroad by the Chairperson shall be undertaken with the prior approval of Minister-in-charge of the Ministry of Corporate Affairs and by the members with prior approval of the Chairperson, after clearance from the Ministry of External Affairs from political angle and from the Ministry of

Home Affairs for acceptance of foreign hospitality, if any, under the provisions of the Foreign Contribution (Regulation) Act, 1976.

(2) The daily allowance and provision of hotel accommodation during the period of tour abroad in case of Chairperson shall be regulated in accordance with his entitlement before joining the Appellate Tribunal, in case of Judicial Members shall be regulated in accordance with his entitlement before joining the Appellate Tribunal and in case of Technical Members shall be regulated in accordance with the Central Government instructions as applicable to Group 'A' officers of the Central Government drawing an equivalent pay.

(3) Indian missions abroad shall take care of arrangements and extend facilities as admissible to the Chairperson and the Member.

(4) The instructions issued by Ministry of External Affairs, Ministry of Finance and Ministry of Home Affairs as amended from time to time will be applicable and shall be followed while undertaking visits abroad.

16. Applicability of rules:-

(1) When a serving Judge of the Supreme Court or the Chief Justice of a High Court is appointed as the Chairperson, his terms and conditions of service shall be the same as were applicable to him prior to his appointment as the Chairperson:

Provided that in case of superannuation of Chairperson as Judge before the expiry of his term as Chairperson, his terms and conditions of service shall be the same as are applicable to a retired Judge of the Supreme Court or a retired Chief Justice of a High Court, as the case may be, under these rules, for remainder period of his term.

(2) When a serving Judge of the High Court is appointed as the member, his terms and conditions of service shall be the same as were applicable to him prior to his appointment as the member:

Provided that in case of superannuation of member as Judge before the expiry of his term as member, his terms and conditions of service shall be the same as are applicable to a retired Judge of the High Court under these rules, for remainder period of his term.

(3) When a person who is in Government Service or employed in any Public Sector Undertaking or any Authority including Autonomous Body of the Government or a Technical Member of the National Company Law Tribunal have been appointed as a Technical Member of the Appellate Tribunal, he shall be entitled for all the service benefits till his superannuation. After the date of his superannuation, his salary and other terms shall be in accordance with the terms of retired person who is appointed as Technical Member. In case a retired person is appointed as a Member his salary and other terms would be governed in accordance with the terms of the retired person (i.e., after making necessary adjustments of post retirement benefits).

17. Oath of office and secrecy:-

(1) Person appointed as the Chairperson shall, before entering upon his office, make and subscribe an oath of office and secrecy, in Form I and Form II annexed to these rules.

(2) Every person appointed as a member shall, before entering upon his office, make and subscribe an oath of office and secrecy, in Form I and Form II annexed to these rules.

18. Declaration of financial or other interest:-

Every person, on his appointment as the Chairperson or Member, as the case may be, shall give a declaration in Form III annexed to these rules, to the satisfaction of the Central Government, that he does not have any such financial or other interest as is likely to affect prejudicially his functions as Chairperson or Member, as the case may be.

19. Residuary provisions:-

Matters relating to the terms and conditions of service of the Chairperson or Member with respect to which no express provision has been made in these rules, shall be determined by the rules and orders for the time being applicable to a serving Judge or Chief Justice of a High Court as the case may be in the case of Chairperson and officer drawing an equivalent pay in the Central Government in case of Member.

20. Other Conditions of Service. –

Matters relating to the terms and conditions of service of the Chairperson or other Members with respect to which no express provision has been made in these rules, shall be referred by the Appellate Tribunal to the Central Government for its decision, and the decision of the Central Government thereon shall be final.

21. Powers to relax:-

The Central Government shall have power to relax any provision of these rules with respect to any class or category of persons.

Form - I
(See rule 17)

Form of oath of office for Chairperson or Members of the National Company Law Appellate Tribunal

"I,, having been appointed as Chairperson or member of the National Company Law Appellate Tribunal

do solemnly affirm

swear in the name of God

that I will faithfully and conscientiously discharge my duties as Chairperson or member to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will."

Signature:

Place:

Name:

Designation:

Date:

Form - II

(See rule 17)

Form of oath of secrecy for Chairperson or Members of the National Company Law Appellate Tribunal

"I,, having been appointed as Chairperson or member of the National Company law Appellate Tribunal

do solemnly affirm

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 Chairperson or member of the said Tribunal except as may be required for the due discharge of my duties as Chairperson or member."

Signature:

Place:

Name:

Designation:

Date:

Form - III

(See rule 18)

Declaration against acquisition of any adverse financial or other interest

I,, having been appointed as the Chairperson or Member (cross out portion not applicable) of the National Company Law Appellate Tribunal, do solemnly affirm and declare that I do not have, nor shall have in future any financial or other interest which is likely to affect prejudicially my functioning as the Chairperson or Member (cross out portion not applicable), of the National Company Law Appellate Tribunal.

Signature:

Place:

Name:

Designation:

Date: