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Review Document

ARMED FORCES TRIBUNAL ACT, 2007

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ARMED FORCES TRIBUNAL ACT, 2007

Significance

This Act was enacted with the purpose of providing a speedy adjudication and trial of disputes and complaints concerning the commission, appointments, enrolments and also the conditions of the service for the personnel's subject to the Army Act, 1950, Navy Act, 1957 and the Air Force Act, 1950 by the Armed Forces Tribunal. The Tribunal has also been given the power to hear appeals arising out of the orders, findings or sentence of a court-martial.

Objective

The establishment of the special tribunal was aimed to take into consideration the disputes arising out of the services and disciplinary matters.

Important Provisions

Section 5-Composition of Tribunal and Benches

(1) The Tribunal shall consist of a Chairperson, and such number of Judicial and Administrative Members as the Central Government may deem fit and further, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches.

(2) a Bench shall consist of one Judicial Member and one Administrative Member.

(3) the Chairperson may, in addition to discharging the functions of a Judicial Member of the Bench to which he is appointed, discharge the functions of an Administrative Member of any other Bench; or may transfer a Member from one Bench to another Bench; or may, for the purpose of securing that any case or cases, which having regard to the nature of the questions involved, requires or require, in his opinion, or under the rules made under this Act, to be decided by a Bench composed of more than two members.

Section 6- A person shall not be qualified for appointment as the Chairperson unless he is a retired Judge of the Supreme Court or a retired Chief Justice of a High Court or he is or has been a Judge of a High Court. Also a person shall not be qualified for appointment as an Administrative Member unless he has held or has been holding the rank of Major General or

above for a total period of at least three years in the Army or equivalent rank in the Navy or the Air Force; and he has served for not less than one year as Judge Advocate General in the Army or the Navy or the Air Force, and is not below the rank of Major General, Commodore and Air Commodore respectively.

Section 7- The Chairperson and other members shall be appointed by the President

Section 8- The term of office is four years from the date on which he enters upon his office

Section 15- Any person aggrieved by an order, decision, finding or sentence passed by a court martial may prefer an appeal in such form, manner and within such time as may be prescribed. The Tribunal shall have power to grant bail to any person accused of an offence and in military custody, with or without any conditions which it considers necessary

Section 17- The powers of the Tribunal on appeal under sec 15: (a) to order production of documents or exhibits connected with the proceedings before the court martial; (b) to order the attendance of the witnesses; (c) to receive evidence; (d) to obtain reports from Court martial; (e) order reference of any question for enquiry; (f) appoint a person with special expert knowledge to act as an assessor; and (g) to determine any question which is necessary to be determined in order to do justice in the case.

Section 23- The powers of tribunal is not same as Civil Procedure Code but shall be guided by the principles of Natural Justice. 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 to use camera.

Section 30- An appeal shall lie to the Supreme Court against the order or final decision of the tribunal, within a period of 90 days.

Amendment

The Armed Forces Tribunal (Amendment) Bill, 2012 was introduced in the Rajya Sabha on August 13 by the Defense Minister, Mr. A.K. Antony. The Bill amended the Armed Forces Tribunal Act, 2007 (the Act).

- Under the Act, the tenure of the Chairperson and members of the Tribunal is four years. The Bill increases their tenure to five years. However, unlike under the present Act, they will not be eligible for re-appointment.
- The Act provides for criminal contempt of the Tribunal. The Act does not contain any provision for civil contempt, i.e., the enforcement of the orders passed by the Tribunal.
- The Act states that if the Chairperson is a former Chief Justice of a High Court, he can hold office until he is 65 years. The Bill proposed the age limit of the Chairperson to 67 years. It had also proposed the new age limit of the judicial members from 65 years to 67 years.

Conclusion

The former President Pratibha Patil gave her assent to the Armed forces tribunal bill on 25th December 2007 which became an act by way of setting up of the country's first ever redressal forum to adjudicate on cases pertaining to armed forces personnel. The Supreme Court while hearing the case of Lt. Col PP Singh Bedi 1982 had emphasized the necessity for an independent appellant forum for armed forces.

References

<http://www.advocatekhoj.com>

<https://www.prsindia.org/billtrack/the-armed-forces-tribunal-amendment-bill-2012-2420>

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About the Author



I'm Pritika Nagpal from Jims School of Law, Greater Noida. It was an immense pleasure to work with LegalEagle Law Forum as a part of one month internship. I felt quite amazed after reviewing six different bare acts as a part of my task. I personally had gained a vast knowledge about the sections of the bare act. Indeed, it was such a good experience for me as I have seen a different scenario of work apart from my other previous online internships. Thanks to LegalEagle Law Forum for providing such a tremendous platform and giving me a wonderful opportunity to be a part of BARE ACT REVIEW PROGRAM INTERNSHIP.

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