

Law Commission Report Summary

Assessment of Statutory Frameworks of Tribunals in India

- The Law Commission of India (Chairperson: Dr. Justice B. S. Chauhan) submitted its report on ‘Assessment of Statutory Frameworks of Tribunals in India’ to the Ministry of Law and Justice on October 27, 2017. Tribunals are quasi-judicial institutions set up to address delays in disposal of cases in courts.
- The matter was referred to the Commission by the Supreme Court. The report examined issues related to: (i) constitution of tribunals, (ii) appointment of the chairman and members of tribunals, and (iii) service conditions of the members of tribunals.
- **Pendency in tribunals:** The Commission observed that the high pendency of cases in some tribunals indicates that the objective of setting them up has not been achieved.

Table 1: Pendency of cases in some tribunals

Tribunal	Number of pending cases
Central Administrative Tribunal	44,333
Railway Claims Tribunal	45,604
Debt Recovery Tribunal	78,118
Customs, Excise and Service Tax Appeal Tribunal	90,592
Income Tax Appellate Tribunal	91,538

Note: Data on number of pending cases available for different dates for different tribunals during the 2016-17 period.
Source: 272nd Report of the Law Commission of India.

- **Selection of members:** The Commission stated that the selection of members should be impartial. It suggested that the involvement of government agencies should be minimal, since the government is typically a party in every litigation.
- The Commission recommended that the chairman, vice-chairman, and judicial members of tribunals should be appointed by a selection committee headed by the Chief Justice of India or a sitting judge of the Supreme Court. Further, the selection committee should have two nominees of the central government. The appointment of other members such as administrative members, accountant members, and technical members should be undertaken by a

separate selection committee headed by a nominee of the central government, appointed in consultation with the Chief Justice of India.

- **Uniformity in service conditions:** The Commission noted that currently there is no uniformity in the age of retirement of tribunal members. It recommended that there should be uniformity in the appointment, tenure, and service conditions for the: (i) chairman, (ii) vice-chairman, and (iii) members of tribunals. The chairman should hold office for three years or till the age of 70, whichever is earlier. The vice-chairman should hold office for three years or till the age of 67.
- Further, the Commission recommended that to ensure uniformity across all affairs of various tribunals, the function of monitoring their working should be transferred to a single nodal agency, set up under the Ministry of Law and Justice.
- **Appeal:** The Commission observed that tribunals were established to reduce the burden on courts. It recommended that appeals against a tribunal’s order should lie before a High Court only where the law establishing such a tribunal does not establish an appellate tribunal. Further, orders of an appellate tribunal may be challenged before the division bench of the High Court having jurisdiction over the appellate tribunal.
- The Commission observed that if decisions of appellate tribunals are appealed before High Courts regularly, the purpose of establishing tribunals may be defeated. It suggested that a party aggrieved by an appellate tribunal’s decision should be able to approach only the Supreme Court on grounds of public or national importance.
- **Benches of tribunals:** Tribunals should have benches in different parts of the country to ensure access to justice by people across geographical areas. These benches should be located where High Courts are situated.

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