

Standing Committee Report Summary

The Tribunals, Appellate Tribunals and other Authorities (Conditions of Service) Bill, 2014

- The Standing Committee on Law and Justice submitted its report on The Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014 on February 26, 2015. The Bill was introduced in Rajya Sabha on February 19, 2014 and referred to the Committee on February 26, 2014.
- The Bill seeks to establish uniform conditions of service for the Chairpersons and members of 26 central tribunals and authorities. Salient recommendations of the Committee are:
 - **Classification of tribunals:** The Bill includes 26 tribunals and authorities within its ambit. The Committee observed that there were no reasonable grounds for classifying them together.

The Committee suggested three different categories of Tribunals for the purposes of determining uniform service conditions: (i) tribunals headed by a SC Judge and where appeals against the order of the tribunal lies to the SC; (ii) tribunals headed by a SC Judge or Chief Justice of HC and tribunals whose order is appealable to a HC; and (iii) tribunals headed by a District Judge with certain experience or one qualified to be a District Judge. The Committee noted that those tribunals which do not qualify in the strict sense, including regulatory bodies, should be excluded from the Bill.
 - **Age of retirement:** The Bill provides for different ages of retirement for members based on their previous posts. It states that the age of retirement for members who were previously: (i) SC judges would be 70 years; (ii) HC judges would be 67 years; and (iii) others at 65 years. The Committee noted that this amounted to treating same class of individuals differently even though they performed same functions, belonged to the same tribunal, and had the same designation. The retirement age must be associated with the post to which an individual is appointed, and not the previous post held. Thus, it recommended that a uniform retirement age of 70 years be fixed for chairperson and members.
- **Tenure:** The Bill provides for five year tenure for members of a Tribunal. The Committee recommended that a term of seven years may be provided so that knowledge and expertise of members may be better utilized.

Further, the Committee suggested that the government examine the possibility of making regular appointments, instead of tenure appointments in all tribunals. This may be done after suitably addressing the issue of career progression of directly recruited members.
- **Reappointment:** The Bill permits reappointment for a term of five years. The Committee noted that a similar provision in relation to the National Tax Tribunal was struck down by the Supreme Court in 2014. The SC had held that a provision for reappointment would undermine the independence of the members. It recommended that the provision relating to reappointment be omitted.
- **Leave sanctioning authority:** The Committee stated that if the Minister were to be the leave sanctioning authority it would affect the independence of the Tribunal. Instead, it proposed that an independent agency, like National Commission for Tribunal (NTC), be the appropriate authority.
- **Setting up of an NTC:** Further, it recommended that the NTC oversee the selection process, eligibility criteria for appointment and removal of chairpersons and members, and requirement of infrastructural and financial resources.
- **Grounds for removal:** The Committee stated that the grounds for removal of Chairman and members must be uniform and be included in the Bill.
- **Application of this Bill:** The Committee suggested that this Bill may be made applicable to only those members and Chairpersons who are appointed to tribunals after the passage of this Bill.

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