

Appellate Tribunal for Forfeited Property (Conditions of Service of Chairman and Members) Rules, 1978.

THE APPELLATE TRIBUNAL FOR FORFEITED PROPERTY (CONDITIONS OF SERVICE OF CHAIRMAN AND MEMBERS) RULES 1978

G. S. R. 395 (E), dated the 4th August, 1978 1 - In exercise of the powers conferred by sub-section (2) of Sec. 26 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976), the Central Government hereby makes the following rules, namely :

1. Short title and commencement.-(1) These rules may be called the Appellate Tribunal for Forfeited Property (Conditions of Service of Chair-man and Members) Rules, 1978.

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

2. Definitions.-In these rules unless the context otherwise requires,-

(a) "Act" means the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976);

(b) "Chairman" means the Chairman of the Tribunal; ,

(c) "Tribunal" means the Appellate Tribunal constituted under sub-section (1) of Sec. 12 of the Act;

(d) "Judge" includes the Chief Justice, an acting Chief Justice, an acting Judge;

(e) "member" means a member of the Tribunal.

Comment

Rule of construction.- It is well-settled canon of construction that the rules made under a statute must be treated exactly as if they were in the Act and are of the same effect as if contained in the Act. There is another principle equally fundamental to the rules of construction, namely, that the rules shall be consistent with the provisions of the Act.²

3. Remuneration, allowances, etc. of the Chairman.-(1) A Judge of the Supreme Court or of High Court appointed as Chairman shall be entitled to a monthly salary at the same rate as is admissible to him as a judge of the Supreme Court or of a High Court, as the case may be. He shall be entitled to such allowances and other benefits as are admissible to a judge of the Supreme Court or of a High Court, as the case may be.

(2) Where the Chairman retires from service as Judge of the Supreme Court or of a High Court during the term of office of such Chairman or a retired Judge of the Supreme Court or of a High Court is appointed as such, he shall be paid for the period he serves as Chairman such salary which, together with his pension and pension equivalent of any other form of retirement benefits shall not exceed the last pay drawn by him before retirement.

1. Published in the Gazette of India, Extraordinary, Pt. II
Sec. 3 (i), dated the 4th August, 1978, pp. 691, 692

.2. Devi Datt v. Union of India, A.I.R
1985 Delhi 195 at p.201.

R.7] APPELLATE TRIBUNAL FOR FORFEITED PROPERTY (CON- 25 DITIONS OF SERVICE ETC.) RULES, 1978

He shall be entitled to such allowances and other benefits as are admissible to a serving judge of the Supreme Court or of a High Court, as the case may be.

(3) A person not being a serving Judge, or, a retired Judge of the Supreme Court or of a High Court appointed as Chairman shall be paid a salary of Rs. 3,500 per mensem and shall be entitled to draw such allowances as are admissible to a Government officer of equivalent pay:

Provided that if such a person at the time of his appointment as chairman is in receipt of a pension in respect of his previous service under the Government or any local body or authority owned or

controlled by the Government, such salary shall be reduced by the amount of pension and pension equivalent of any other form of retirement benefits"

4. Remuneration, allowances, etc. of members.- A person appointed as member shall be paid a salary of Rs. 3,000 per mensem and shall be entitled to draw such allowances as are admissible to a Government office of equivalent pay :

Provided that if such a person at the time of his appointment as member is in receipt of a pension in respect of any previous service under the Government or any local body or authority owned or controlled by Government, such salary shall be reduced by the amount of pension and pension equivalent of any other form of retirement benefits.

5. Retirement during the term of member.- Where a member retires from service under the Government or any local body or authority owned or controlled by the Government during the term of office as such member, his salary for the period he serves as member after such retirement shall be reduced by the amount of pension and pension equivalent of any other form of retirement benefits.

6. Travelling allowances.- (1) If the Chairman is a serving Judge or a retired Judge of the Supreme Court or of a High Court, he shall be entitled to draw travelling allowance under the Supreme Court Judges (Travelling Allowance) Rules, 1959, or as the case may be, the High Court Judges (Travelling Allowance) Rules, 1956, in respect of journeys performed by him in connection with the work of the Tribunal at the rates as are admissible to a Judge of the Supreme Court or of a High Court, as the case may be. However, a retired Judge of the Supreme Court or of a High Court shall not be entitled to the benefit of higher daily allowance admissible to a serving Judge of the Supreme Court or of a High Court, as the case may be, for performing functions outside their normal duties in localities away from their headquarters.

(2) The Chairman, not being a Judge or a retired Judge of the Supreme Court or of a High Court or any member shall be entitled to draw travelling allowance in respect of Journeys performed by him in connection with the work of the Tribunal at the same rates as are admissible to a Central Government officer of equivalent pay.'

Leave.- (I) Where the Chairman is a serving Judge of the Supreme Court or of a High Court, he shall be entitled to such leave as may be admissible to him under 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). The serving Judge of the Supreme Court S. & F. E. M. Act-4 26 APPELLATE TRIBUNAL POR FORFEITED PROPERTY (CON- [R. 8 DITIONS OF SERVICE ETC.) RULES, 1978

of a High Court retiring during the tenure of appointment as Chairman, he would be governed by Central Civil Services (Leave) Rules, 1972, with effect from his date of retirement from, service. or

of a High Court retiring during the tenure of appointment as Chairman, he would be governed by Central Civil Services (Leave) Rules, 1972, with effect from his date of retirement from, service.

(2) Where the Chairman is a retired Judge of the Supreme Court or of a High Court, he shall be entitled to such leave as is admissible to an officer of the Government under the Civil Court Services (Leave) Rules, 1972.

or

of a High Court retiring during the tenure of appointment as Chairman, he would be governed by Central Civil Services (Leave) Rules, 1972, with effect from his date of retirement from, service.

(2) Where the Chairman is a retired Judge of the Supreme Court or of a High Court, he shall be entitled to such leave as is admissible to an officer of the Government under the Civil Court Services

(Leave) Rules, 1972.

(3) A person appointed as a member shall be entitled to such leave as is admissible to an officer of the Government under the Central Civil Services (Leave) Rules, 1972 :

Provided that where a person to whom the Central Civil Services (Leave) Rules, 1972, are not applicable, is appointed as the Chairman or a member, he shall be eligible for the grant of leave under the rules applicable to him before such appointment.

8. Vacation.- (1) Where the Chairman is a serving Judge, he shall be entitled to vacation in accordance with the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958), or as case may be the High Court Judges (Conditions of Service) Act, 1954 (28 of 1954).

(2) The Chairman, who is not a serving Judge of the Supreme Court or of a High Court and a Member shall not be entitled to vacation.

9. Accommodation.- (1) A serving Judge or a retired Judge of the Supreme Court or of a High Court who is appointed as Chairman shall be entitled, without payment of rent, to the use of an official residence in accordance with Supreme Court Judges (Conditions of Services) Act, 1958 (41 of 1958), or as the case may be, the High Court Judges (Conditions of Service) Act, 1954 (28 of 1954).

(2) The Chairman, who is not a serving Judge or a retired Judge of the Supreme Court or of a High Court, and a member shall be entitled to government accommodation on payment of prescribed rent as admissible to a Central Government Officer of equivalent pay.

10. Medical attendance.-(1) A serving Judge or retired Judge of the Supreme Court or of a High Court shall be entitled to medical attendance in accordance with the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958), or as the case may be High Court Judges (Conditions of Service) Act, 1954 (28 of 1954).

(2) The Chairman, who is not a serving Judge or a retired Judge of the Supreme Court or of a High Court, and a Member of the Tribunal shall be entitled to medical facilities admissible to a Central Government officer of equivalent pay..

11. Tenure.-(1) (a) Where a serving Judge of the Supreme Court or of a High Court is appointed as Chairman he shall hold office as Chairman for a period of three years or till he attains the age of sixty-five years or sixty-two years, as the case may be, whichever happens earlier :

Provided that where a retired Judge of the Supreme Court or of a High Court is appointed or re-appointed as Chairman beyond the age of sixty-five years or sixty-two years, as the case may be, he shall hold office as Chairman for such period not exceeding three years as may be determined by the Central Government at the time of appointment or re-appointment.

App.] APPELLATE TRIBUNAL FOR FORFEITED PROPERTY CON- 27 DITIONS OF SERVICE ETC.) RULES, 1978

(b) Where a person not falling under Cl. (a) is appointed as Chairman, he shall hold office for a period of three years, or till he attains the age of sixty-five years, whichever happens earlier and shall not be eligible for re- appointment.

1[(c) Notwithstanding anything contained In Cl. (b), where a person appointed as Chairman is due to retire on attaining the age of superannuation under the relevant rules applicable to him within a period of one year after completion of the period of three years referred to in that clause, such person shall continue to hold office as Chairman till the date of his superannuation under the said rules.]

(2) A person appointed as member shall hold office till he attains the age of sixty years.

12. Oath of office.- Every person appointed as the Chairman or as a member, not already in Government service, shall before entering upon office, make and subscribe to an oath of office before an officer of the Central Government not below the rank of Additional Secretary in the form appended to these rules.

13. Saving.- In respect of any matter not covered by these rules, the Chairman and a member shall be governed by such rules or orders as may be applicable to a Central Government officer of equivalent pay.

14. Interpretation.- If any question arises relating to the interpretation of rule, the matter shall be referred to the Central Government who shall decide the same.

APPENDIX

FORM

(See rule 12)

I, do swear/solemnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, and that I will carry out the duties of my office loyally, honestly and with impartiality.

So help me God.

Signature
Chairman member
Appellate Tribunal for
For Forfeited Property Officer,
before whom the oath was taken. [F.
No. 22/1/78-Ad: IA (C)].
Gazette of India, Extraordinary, Pt. II,

I. Ins. by G. S. R. 953 (E), dated 31s

MINISTRY OF FINANCE

(Department of Revenue)

Notification No. 10/2001

New Delhi, the 1st October, 200 1

G.S.R. 751(E)- In exercise of the powers conferred by sub-section (2) of section 26 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976), the Central Government hereby makes the following rules .further to amend the Appellate Tribunal for Forfeited Property (Conditions of Service of Chairman and Members) Rules,1978, namely:-

1. (1) These Rules may be called the Appellate Tribunal for Forfeited Property (Conditions of Service of Chairman and Members) Amendment Rules, 2001.

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

2. In the Appellate Tribunal for Forfeited Property (Conditions of Service of Chairman and Members) Rules, 1978,-

(i) in rule 3, for sub-rule (3) the following shall be substituted namely :-- "A person not being a

serving Judge or a retired Judge of the Supreme Court or of a High Court appointed as Chairman shall receive a pay of Rs. 26,000 (fixed) per mensem and shall be entitled to draw such allowances as are admissible to the Central Government officers of equivalent pay :

Provided that if the pay-scale of the officers of the Central Government of equivalent pay [i.e., officers in the pay-scale of Rs. 26, 000 (fixed)] is revised, the person appointed as Chairman referred to in this sub-rule shall be entitled to the revised pay-scale applicable to the said officers of the Central Government of equivalent pay; Provided further that if such a person at the time of his appointment as Chairman is in receipt of a pension in respect of his previous service under the Government or any local body or authority owned or Controlled by the Government, such salary shall be reduced by the amount of pension and pension equivalent of any other form of retirement benefits.";

(ii) for rule 4, the following shall be substituted, namely:-

"4. Remuneration, allowances, etc. of Members.- A person appointed as member shall receive pay in the scale of Rs. 22,400- 525- 24,500 and shall be entitled to draw such allowances as are admissible to the Central Government officers of equivalent pay :

Provided that if the pay-scale of the officers of the Central Government of equivalent pay (i.e., officers in the pay-scale of Rs. 22,400- 525- 24,500) is revised, the person appointed as member shall be entitled to the revised pay-scale applicable to the said officers of the Central Government of equivalent pay :

Provided further that if such a person at the time of his appointment as member is in receipt of a pension in respect of his previous service under the Government or any local body or authority owned or controlled by the Government, such salary shall be reduced by the amount of pension and pension equivalent of any other form of retirement benefits."

[F.No. A-15015/1/2000-CA]

DR. M.C. MEHANATHAN, Dy. Secy.

NOTE: The principal rules were published vide G. S.R No.3 95 (E) dated 4th August, 1978 and subsequently amended vide G.S.R No. 1177 dated 15 November, 1980, G.S.R. No. 953 (E) dated 31st December, 1985, G.S.R. No. 592 (E) dated 8th August, 1987, G.S.R. No. 950 dated 24th November, 1988, G.S.R. No. 31 (E) dated 24th January, 1994 and G.S.R. No.553 (E) dated 2nd September, 1998.