

ABOUT THE ARMED FORCES TRIBUNAL ACT, 2007

Introduction

A large number of cases relating to service matters and appeal arising out of verdict of the Court Martial pertaining to the members of the Armed Forces of the Union of India (Army, Navy & Air Force) were pending in the courts of the country for a long time. In 1982 the Supreme Court of the India urged the Central Government to take steps to provide for at least one judicial review in cases of service personnel. In 1992 the Estimate Committee of the Parliament in their 19th Report had desired that the Government should constitute an independent statutory Board or Tribunal for service personnel. Accordingly, the Armed Forces Tribunal Bill having been passed by both the Houses of Parliament received the assent of the President on 20th Dec 2007. It came on the Statute Book as the ***Armed Forces Tribunal Act, 2007 (55 of 2007)***.

Aim

To provide speedy and less expensive justice to the members of Armed Forces of the Union of India for the adjudication of disputes and complaints with respect to their service related matters who are subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950 and also provide for appeals arising out of orders, findings or sentences of Court Martial held under the said acts and for matters connected therewith or incidental thereto.

Applicability of the Act

- (1). The provisions of the Act shall apply to all persons subject to the Army Act, 1950 (46 of 1950), the Navy Act 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950).

(2). The Act shall also apply to retired personnel subject to the said act including their dependents, heirs and successors in so far as it relates to their service matters.

Clause 1. Apart from the persons subject to Army, Navy and Air Force Acts, the Armed Forces Tribunal Act would also extend to those persons who become or had become subject to service laws for a specific tenure like TA, Reserve personnel in so far as their liability for military service.

Clause 2. The term 'retired' has a definite connotation in the armed forces and refers to those who are separated from service with a retiring pension or gratuity. However, the Act also extended to those persons who have released, dismissed, cashiered, discharged and demobilized.

Clause 3. "Service Matters" in the context of dependents, heirs and successors could relate to arrears or pay and allowances, terminal and disability benefits and concessions, etc.

Object

To achieve the object, the Central Government has established 11 Benches of the Armed Forces Tribunal across the country with its Principal Bench at New Delhi.

ARMED FORCES TRIBUNAL (REGIONAL BENCH) **GUWAHATI**

The Government of India, Ministry of Defence vide Gazette Notification No S.R.O. 10(E) dated 28th July 2010 has established this Bench with effect from 31st July 2010 which is presently located at 2nd Floor, Assam Police Housing Corporation Ltd, Rehabari, Guwahati -8 and is functioning since then.

Territorial Jurisdiction

The Bench has Jurisdiction within the territorial limits of the State of **Assam, Arunachal Pradesh, Meghalaya, Manipur, Mizoram, Nagaland, Tripura and Sikkim.**

Composition

The Bench is a Division Bench comprising of two Hon'ble Members (one Judicial Members who is a retired Judge of Hon'ble Gauhati High Court and one Administrative Member).

Appeal

An appeal shall lie to the Supreme Court against the final decision or order of the Tribunal.

Procedure for Filing Application/Appeal

An application to the Tribunal shall be presented in the prescribed form by the applicant in person or by an agent or by a duly authorized Legal Practitioner to the Filing Section of the Tribunal or be sent by Registered Post or by Courier with acknowledgement due addressed to the Registrar, Armed Forces Tribunal (Regional Bench), 2nd Floor, Assam Police Housing Corporation Ltd, Rehabari, Guwahati -8 and is functioning since then. Every application filed before the Tribunal shall be accompanied by a fee of Rs 250/- (Rupees two hundred fifty only) in the form of Demand Draft on a nationalized bank in favour of the Registrar, AFT(RB), Guwahati, payable at SBI, Guwahati. However, if the Tribunal is satisfied that an applicant is unable to pay the prescribed fee on ground of indigence, it may be exempt from paying such application fee.

Generally, appeals and applications filed fall into the following categories :-

(a) **Service Matters.** Mean all matters relating to the conditions of their service and shall include :-

- (i) Remuneration (including allowances), pension and other retirement benefits.
- (ii) Tenure, including commission, appointment, enrolment, probation, confirmation, seniority, training, promotion, reversion, premature retirement, superannuation, termination of service and penal deductions.
- (iii) Summary disposal and trials where the punishment of dismissal is awarded.
- (iv) Any other matter, whatsoever,

(b) **Appeal against Court Martial.** The Tribunal shall allow an appeal against conviction by a Court Martial where :-

- (i) The finding of the Court Martial is legally not sustainable due to any reason whatsoever.
- (ii) The finding involves wrong decision on a question of law.
- (iii) There was a material irregularity in the course of the trial resulting in miscarriage of justice.

Salient Features of Orders of the Armed Forces Tribunal Act.

- (a) Disability pension, subject to the Medical Board, Court Orders for rounding off of benefits upto 50% from 20% onwards.
- (b) No bar of limitation and even cases having 40 to 50 years bar are awarded, subject to no benefits from 3 years immediately preceding the date of filing the application before the Armed Forces Tribunal.
- (c) Speeding up of trials of persons convicted and sentenced to Jail by providing for Jail appeals.

Place of Filing Application

An application shall ordinarily be filed by the applicant with the Registrar of the Bench within whose jurisdiction the applicant is posted for the time being or was last posted or attached or where the cause of action, wholly or in part has arisen or a person who has ceased to be in service by reason of his retirement, dismissal, discharge, cashiering, release, removal, resignation or termination of service may at his option, file an application within whose jurisdiction such person is ordinarily residing at the time of filing of the application.

Conclusion

From the date of establishment, AFT(RB), Guwahati has received 112 cases on being transferred from the various Courts of the Territorial Jurisdiction, 429 cases filed before this Bench i.e. a total of 541 cases received for adjudication out of which 512 cases have been adjudicated and only 29 cases are pending as on date.