

Supreme Court judgement on the 2020 Tribunal Rules

December 7, 2020

In news

Country's apex Court passed a judgment on several aspects of the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020

Background

In 2019, the Supreme Court had struck down an earlier version of the Rules notified in 2017. The Court had then held that these Rules conflicted with various principles of the Constitution which stressed on the need to preserve the independence of the judiciary. The government was asked to reformulate the rules to align them with the previous judgments of the Court, following which the 2020 Rules were notified.

Key points of Supreme Court judgment

- **National Tribunals Commission:** The apex court directed the Union government to constitute an independent body called the National Tribunals Commission to supervise appointments, as well as functioning and administration of the tribunals.
- It also directed that a separate wing under the Ministry of Finance may be set up to supervise the needs of the tribunals till the Commission is constituted
- **Composition of Selection committee:** The Court pointed out that the selection committees did not give primacy to judicial members in decision making. It specified that the committee should consist of:
 - Chief Justice of India or his nominee (with a casting vote)

- The presiding officer of the tribunal or a retired Supreme Court judge or Chief Justice of High Court in case the presiding officer is not a judicial member or if he is seeking re-appointment
- Secretary to the Ministry of Law and Justice
- Secretary to the central government from non-parent Ministry, and
- Secretary from parent Ministry (without a vote).
- **Eligibility:** Advocates with experience of 10 years will be eligible for appointment as judicial members in tribunals (instead of the current requirement of 25 years in some tribunals).
- **Five-year term:** Tribunal members will have a term of five years instead of four years. Further, the vice-chairman, vice-president, and other members will be allowed to hold office till they reach 67 years of age.
- The Court stated that the 2020 Rules will have prospective effect and will be applicable from the date of its notification (February 12, 2020). Further, all appointments made to date of the judgement under the Rules will be valid.
- **Appointments to tribunals:** Central government must make all tribunal appointments within three months of the recommendations made by the Selection Committee.

Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020

- The Union Ministry of Finance has framed new rules that prescribe uniform norms for the appointment and service conditions of members to various tribunals.
- The new rules are made in exercise of powers under Section 184 of the Finance Act 2017
- The rules apply to various tribunals such as Industrial Tribunal, Income Tax Appellate Tribunal, Central Administrative Tribunal, Railway Claims Tribunal,

Security Appellate Tribunal, etc.