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NOTIFICATION

No. LJA 13/82/142, the 14th March 1986. The following ordinance is hereby published for General information.

K. N. Srivastava,
Secretary to the Govt. of Mizoram,
Law and Judicial Deptt.

THE ADMINISTRATIVE TRIBUNALS (AMENDMENT) ORDINANCE, 1986.

NO. 1 of 1986.

Promulgated by the President in the Thirty-sixth Year of the Republic of India.

An Ordinance to amend the Administrative Tribunals Act, 1985.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1 (1) This Ordinance may be called the Administrative Tribunals (Amendment) Ordinance, 1986.

Short title and commencement.

(2) It shall come into force at once.

13 of
1985.

2. In the Administrative Tribunals Act, 1985 (hereinafter referred to as the principal Act), in the long title, after the words "any corporation," the words "or society" shall be inserted.

Amend-
ment of
section

3. In section 2 of the principal Act, clause (b) shall be omitted.

2.
Amend-
ment of
section
3.

4. In section 3 of the principal Act,—

(a) clause (a) shall be re-lettered as clause (aa), and before clause (aa) as so relettered, the following clause shall be inserted, namely ;—

(a) "Administrative Member" means a Member of a Tribunal who is not a Judicial Member within the meaning of clause (i);

(b) for clause (i), the following clause shall be substituted, namely :—

(i) "Judicial Member" means a Member of a Tribunal appointed as such under this Act, and includes the Chairman or a Vice-Chairman who possesses any of the qualifications specified in sub-section (3) of section 6;

(ii) "Member" means a Member (whether Judicial or Administrative) of a Tribunal, and includes the Chairman and a Vice Chairman";

(c) clause (n) shall be omitted;

(d) in clause (q), after the words "any corporation," the words "or society" shall be inserted;

(e) after clause (r); the following clause shall be inserted, namely:—

(rr) "society" means a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State.

Amendment
of section 4.

5. In section 4 of the Principal Act, after sub-section (4), the following sub-sections shall be inserted, namely :—

“(5) Notwithstanding anything contained in the foregoing provisions of this section, or sub-section (1) of section 5, the Central Government may:-

- (a) With the concurrence of any State Government, designate, by notification, all or any of the Members of the Bench or Benches of the State Administrative Tribunal established for that State under sub-section (2) as Members of the Bench or Benches of the Central Administrative Tribunal in respect of that State and the same shall exercise the jurisdiction, powers and authority of the Central Administrative Tribunal by or under this Act;
- (b) on receipt of a request in this behalf from any State Government, designate, by notification, all or any of the Members of the Bench or Benches of the Central Administrative Tribunal functioning in that State as the Members of the Bench or Benches of the State Administrative Tribunal for that State and the same shall exercise the jurisdiction, powers and authority of the State Administrative Tribunal as if established by or under this Act for that State;

and upon such designation, the Bench or Benches of the State Administrative Tribunal or, as the case may be, the Bench or Benches of the Central Administrative Tribunal be deemed, in all respects, to be the Central Administrative Tribunal, or the State Administrative Tribunal for the State establish under the provisions of article 323A of the Constitution and this Act.

(6) Every notification under sub-section (5) shall also provide for the apportionment between the State concerned and the Central Government of the expenditure in connection with Members common to the Central Administrative Tribunal and State Administrative Tribunal and such other incidental and consequential provisions not inconsistent with this Act as may be deemed necessary or expedient”.

6. In section 5 of the principal Act.-

- (a) in sub-section (1), for the words “and other Members” the words “and judicial and Administrative Members” shall be substituted;

Amendment of section 5.

(b) for sub-section (2), the following sub-section shall be substituted, namely :-

“(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.”

(c) sub-section (3) shall be omitted ;

(d) in sub-section (4), -

(i) in the opening portion, the words, brackets and figure “or sub-section (3)” shall be omitted;

(ii) for clause (a), the following clause shall be substituted, namely :-

“(a) may, in addition to discharging the functions of the Judicial Member or the Administrative Member of the Bench to which he is appointed, discharge the functions of the Judicial Member, or, as the case may be, the Administrative Member, or any other Bench;”

(iii) in clause (c), for the words “the Vice-chairman or, as the case may be, other Member of another Bench” the words “the Judicial Member or the Administrative Member, as the case may be, of another Bench” shall be substituted;

(iv) in clause (d),-

(1) for the words “three Members” the words “two Members” shall be substituted;

(2) the following proviso shall be inserted at the end namely :-

“Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Administrative Member”.

(e) sub-section (5) shall be omitted;

(f) in sub-section (6) ,—

(i) in the opening paragraph, for the words “an additional Bench”, the words “a Bench” shall be substituted;

(ii) in the proviso, for the words “three Members” the words “two Members” shall be substituted;

(g) in sub-section (7), the words "Principal Bench and other" shall be omitted.

Amenament
of section 6.

7. In section 6 of the principal Act, -

(a) in sub-section (2),-

(i) after clause (b), the following clause shall be inserted, namely :-

"(bb) has, for at least five years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; or"

(ii) in clause (c), for the words "a Member," the words "Judicial Member or an Administrative Member" shall be substituted;

(b) for sub-section (3), the following sub-sections shall be substituted, namely :-

"(3) A person shall not be qualified for appointment as a Judicial Member unless he-

(a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years.

(3A) A person shall not be qualified for appointment as an Administrative Member unless he-

(a) has, for at least two years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; or

(b) has, for at least three years, held the post of a Joint Secretary to the Government of India or any other post under the

Central or a State Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India,

and shall, in either case, have adequate administrative experience,".

(c) in sub-sections (4) and (5), for the words "The Chairman", the words, brackets and figure "Subject to the provisions of sub-section (7), the Chairman" shall be substituted;

(d) in sub-section (6), after the words, brackets and figures "under sub-section (3) of section 4", the words, brackets and figures "and subject to the provisions of sub-section (7)" shall be inserted;

(e) after sub-section (6) the following sub-section shall be inserted, namely :—

"(7) No appointment of a person possessing the qualifications specified in sub-section (3) as the Chairman or a Judicial Member shall be made except after consultation with the Chief Justice of India",

8. In section 11 of the principal Act, in the Explanation after the words "any cor/pratopm", the words "or society" shall be inserted.

Amend-
ment of
section
11.

9. In section 12 of the principal Act—

Amend-
ment of
section
12.

(a) in the opening paragraph, the words "principal Bench and each of the additional" shall be ommitted;

(b) in the proviso, for the words "the Vice-Chairman subject to the condition that the Vice Chairman", the words "the Vice-Chairman or any Officer of the Tribunal subject to the condition that the Vice-Chairman or such Officer" shall be substituted.

10. In section 13 of the principal Act, after sub-section (1), the following sub-section shall be inserted namely:—

Amend-
ment of
section
13.

“(I A) The Officers and other employees of a Tribunal shall discharge their functions under general superintendence of the Chairman”.

11. In section 14 and 15 of the principal Act,—

Amend-
ment of
sections
14 and
15.

(a) the words and figures “under article 136 of the Constitution”. Wherever they occur, shall be ommitted;

(b) after the word “corporation”, wherever it occurs, the words “or society” shall be inserted;

(c) after the word “corporations” wherever it occurs, the words “or society” shall be inserted.

12. In sub-section (1) of section 18 of the principal Act,—

Amend-
ment of
-section
18.

(a) for the words “any additional Bench or Benches of a Tribunal is or are constituted, the words “any Benches of a Tribunal are constituted” shall be substituted;

(b) the words “principal Bench and the Ad-
ditional Bench or additional” shall be ommitted.

Amendment 13. In section 19 of the principal Act-
of section 19.

(a) in the explanation below sub-section (1) after the word “corporation”, at both the places where it occure, the words “or society” shall be inserted;

(b) in sub-section (2), for the words “as may be prescribed by the Central Government”, the words “in respect of the filing of such application and by such other fees for the service or execution of processes, as may be prescribed by the Central Government” shall be substituted;

(c) for sub-section (3), the following sub-section shall be substituted namely:—

“(3) on receipt of an application under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, admit such application; but where the Tribunal is not so satisfied it may summarily reject the application after recording its reasons”.

Amendment of 14. In section 22 of the principal Act,-
section 22.

(a) in sub-section (2), for the words “after hearing of oral arguments, if any, allowed by the Tribunal in the circumstances of the case”, the words “after hearing such oral arguments as may be adduced” shall be substituted;

(b) in sub-section (3), for the words “holding any inquiry”, the words “discharging its functions under this Act” shall be substituted.

Amendment of 15. In sub-section (2) of section 23 of the principal Act-

(a) after the word “corporation”, the words “or society” shall be inserted;

(b) for the portion beginning with the words “may appoint” and ending with the words “before a Tribunal”, the words “may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised by it may present its case with respect to any application before a Tribunal” shall be substituted.

Substitution 16. For sections 25 and 26 of the principal Act, of new sections the following sections shall be substituted namely:-
for sections 25
& 26.

Power of chairman to transfer cases from Bench to another. “25. On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench.

26. If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard the case, including those who first heard it;

Decision to be by majority.

17. In section 28 of the principal Act, for the words, brackets and figures "no court (except the Supreme Court under article 136 of the constitution) shall have", the following shall be substituted, namely—
"no court except—

Amendment of section 28.

(a) The Supreme Court; or

(b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force, shall have"

18. In section 29 of the principal Act,—

Amendment of section 29.

(a) in sub-section (1), in the proviso, the words "or the Supreme Court" shall be omitted;

(b) in sub-section (2).—

(i) after the words "corporation" wherever it occurs, the words "or society" shall be inserted;

(ii) in the proviso, the words "or the Supreme Court" shall be omitted.

19. In sub-section (2) of section 35 of the principal Act,—

Amendment of section 35.

14 of 1947.

(a) in clause (a), for the words "three members", the words "two Members" shall be substituted:

(b) in clause (d), for the words "and the fees payable in respect of such application", the words "and the fees payable in respect of the filing of such application or for the service or execution of processes" shall be substituted.

20. In section 36 of the principal Act, in clause (a), the words "principal Bench and the additional" shall be omitted. Amendment of section 36.

21. Every person holding office as Chairman, Vice-Chairman or other Member of the Central Administrative Tribunal immediately before the commencement of this Ordinance shall:- Provisions as to existing Members of Central Administrative Tribunal.

(a) if he possesses any of the qualifications specified for appointment as a Judicial Member under the principal Act, as amended by this Ordinance, be deemed, on and from such commencement, to have been appointed as a Judicial Member of such Tribunal ; and

(b) in any other case, be deemed, on and from such commencement, to have been appointed as an Administrative Member of such Tribunal.

ZAIL SINGH
President.

S. RAMAIAH,
Secy. to the Govt. of India.