

CEGAT MEMBERS (RECRUITMENT AND CONDITIONS OF SERVICE) RULES, 1987

CONTENTS

1. Short title and commencement
2. Definitions
3. Qualifications for recruitment
4. Disqualification
5. Initial constitution
6. Method of recruitment
7. Medical fitness
8. Probation
9. Reversion or termination of the service of members
10. President
11. Senior Vice-President
12. Vice-President
13. Classification
14. Pay and allowances
15. Seniority
16. Age of Superannuation
17. Retirement benefit
18. Other conditions of service
19. Interpretation
20. Power to relax
21. Saving

CEGAT MEMBERS (RECRUITMENT AND CONDITIONS OF SERVICE) RULES, 1987

Notification G.S.R. No. 168.- In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment and conditions of service of persons appointed as members of the Customs, Excise and Gold (Control) Appellate Tribunal, namely:-

1. Short title and commencement :-

(1) These rules may be called the Customs, Excise and Gold (Control) Appellate Tribunal Members (Recruitment and Conditions of Service) Rules/1987.

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

2. Definitions :-

In these rules, unless the context otherwise requires,-

- (a) "Act" means the Customs Act, 1962 (52 of 1962),
- (b) "Judicial member" means a judicial member of the Tribunal;
- (c) "member" means a member of the Tribunal and unless the context otherwise requires, includes the President, the Senior Vice-President, a Vice-President, a judicial member and a technical member;
- (d) "President" means the President of the Tribunal;
- (e) "Senior Vice-President" means the Senior Vice-President of the Tribunal;
- (f) "technical member" means a technical member of the Tribunal;
- (g) "Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under Section 129 of the Act;
- (h) "Vice-President" means the Vice-President of the Tribunal.

3. Qualifications for recruitment :-

(1) A person shall not be qualified for appointment as a judicial member unless -

- (i) he has for at least ten years held a judicial office in the territory of India; or
- (ii) he has been a member of the Indian Legal Service and has held a post in Grade I of that service or any equivalent or higher post for at least three years; or
- (iii) he has been an advocate for at least ten years.

Explanation.-For the purpose of this sub-rule, -

- (i) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate or has held the office of member of a Tribunal or any post, under the Union or a State, requiring special knowledge of law;
- (ii) in computing the period during which a person has been an advocate, there shall be included any period during which the

person has held a judicial office or the office of a member of any Tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate.

(2) A person shall not be qualified for appointment as a technical member unless he has been a member of the Indian Customs and Central Excise Service Group 'A' and has held the post of ¹[Commissioner] of Customs or Central Excise or any equivalent or higher post for at least three years.

² [(3) No person shall be qualified for appointment as a member of the Tribunal unless he has attained the age of 45 years.]

Designation changed vide s. 70 of the Finance Act, 1995 (22 of 1995).

Inserted by Notification G.S.R. No. 259(E), dated 14-5-1997.

4. Disqualification :-

No person, -

(a) who has entered into or contracted a marriage with a person having a spouse living, or

(b) who, having a spouse living, has entered into or contracted a marriage with any other person, shall be eligible for appointment as a member :

Provided that the Central Government may, if satisfied that the marriage is permissible under personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Initial constitution :-

Any member of the Tribunal holding the post of the President, Senior Vice-President, Vice President, Judicial member or technical member on the date of commencement of these rules, shall be deemed to have been appointed as such President, Senior Vice-President, Vice-President, Judicial member or as the case may be, the technical member of the Tribunal with effect from the date of their appointment and the services rendered by such members before the commencement of these rules shall be counted for all the purposes as regular service under these rules.

6. Method of recruitment :-

(1) For the purpose of recruitment to the post of a member, there

shall be a Selection Committee consisting of -

(i) a judge of the Supreme Court of India as nominated by the Chief Justice of India;

(ii) the Secretary to the Government of India in the Ministry of Finance, (Department of Revenue);

(iii) the Secretary to the Government of India in the Ministry of Law (Department of Legal Affairs);

(iv) The President;

(v) such other-persons, not exceeding two, as the Central Government may nominate.

(2) The judge of the Supreme Court shall be the Chairman of the Selection Committee.

(3) The Selection Committee shall recommend persons for appointment as members from amongst the persons on the list of candidates prepared by the Ministry of Finance after inviting applications therefor by advertisement or on the recommendations of the appropriate authorities.

(4) Subject to the provisions of Section 10 ,the Central Government shall, after taking into consideration the recommendations of the Selection Committee, make a list of persons selected for appointment as members.

(5) Any three members of the Committee including the Chairman shall form a quorum for meeting of the Committee.

(6) The Selection Committee may devise its own procedure for selection of members.

7. Medical fitness :-

No person shall be appointed as a member unless he is included in the list made under sub-rule (4) of Rule 6 and unless he is declared medically fit by a Medical Board to be constituted by the Central Government for the purpose unless he has already been declared fit by an equivalent authority.

8. Probation :-

(1) Every person appointed as a member shall be on probation for a period of one year.

¹ [(2) The Central Government may extend the period of probation for a further period of one year at a time so that the period of probation in aggregate may not exceed three years.]

(3) A member may be discharged from service at any time during the period of probation without assigning him any reason. .

Substituted by M.P. (D.R.) Notification No.-4/95-Ad. IC, dated 25-4-1995.

9. Reversion or termination of the service of members :-

(1) In case of a person appointed as a technical or a judicial member from any post under the Union or a State, unless such a person is confirmed, the Central Government may at any time revert him to his parent post without assigning any reason, after giving him one month's notice of such reversion and in case a technical or a judicial member wishes to revert to his parent post, he shall be required to give one month's notice to the Central Government,

Provided that in case such technical or judicial member has already superannuated according to the relevant rules of his parent post, the appointment may be terminated by the Central Government at any time without assigning any reason after giving him one month's notice of such termination and in case such technical or judicial member wishes to resign, he shall be required to give one month's notice to the Central Government.

(2) In case of a person appointed as a judicial member directly from the Bar, unless he is confirmed, the appointment may be terminated by the Central Government at any time without assigning any reason after giving him one month's notice of such termination and in case such judicial member wishes to resign, he shall be required to give one month's notice to the Central Government.

10. President :-

¹ [(1) The Central Govt. shall appoint :

(a) a person who is or has been a Judge of a High Court, or

(b) one of the members of the Appellate Tribunal to be the President thereof.

(2) Where a Member (other than a sitting or retired Judge of a

High Court) is appointed as President, he shall hold the office as President, for a period of 3 years or till he attains the age of 65 years, whichever is earlier.

(3) Where a serving or retired Judge of a High Court is appointed as President, he shall hold the office as President for a period of 3 years from the date he enters upon the office or till he attains the age of 65 years whichever is earlier. ']

(4) Where a sitting or retired Judge of a High Court is appointed as President, the Conditions of Service will be the same as are applicable to a serving Judge of a High Court under High Court Judges (Conditions of Service) Act, 1954 and the rules framed under that Act.]

Substituted by Notification G.S.R. No. 259(E), dated 14-5-1997.

11. Senior Vice-President :-

(1) The Central Government may appoint one of the Vice-Presidents to be the Senior Vice-President thereof.

(2) The Senior Vice-President shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing.

12. Vice-President :-

(1) The Central Government may appoint one or more members to be the Vice-President or, as the case may be, the Vice-Presidents thereof;

(2) The Vice-President shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing.

13. Classification :-

A member shall be a member of the General Central Service, Group A Gazetted, unless he is a member of any other Central Civil Service.

14. Pay and allowances :-

¹ [(1) The pay-scales of the President, the Vice-President and the Member shall be as under:-

--	--

President	Rs. 8000 per mensem (fixed)
Senior Vice-President	Rs. 8000 per mensem (fixed)
Vice-President	Rs. 7600 per mensem (fixed)
Member	Rs. 7300- 100- 7600]

(2) In addition to the scales of pay specified in sub-rule (1), the members shall be entitled to allowances at the rates admissible to the Central Government officers of appropriate category and subject to the conditions laid down in rules and orders of the

Central Government governing the grant of such allowances in force from time to time.

(3) A Judge of a High Court appointed as member and President under sub-rule (2) of Rule 10 shall be entitled to a monthly salary and allowances at the same rate as is admissible to him as a Judge of a High Court.

(4) Where the President retires from service as Judge of a High Court during the term of office of such President or retired Judge of a High Court is appointed as such, he shall be paid for the period he serves as President, 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. He shall, be entitled to such allowances and other benefits as are admissible to a serving Judge of a High Court.

Substituted by M.P. (D.R.) Notification No.-4/95-Ad. IC, dated 25-4-1995.

15. Seniority :-

(1) Seniority of a member shall be determined in accordance with the date of the list of persons selected for appointment as members made under sub-rule (4) of rule 6.

(2) If two or more members are selected by the same list inter se seniority of such members shall be determined in accordance with their ranking in that list.

16. Age of Superannuation :-

RULE Subject to the provisions of Rule 10, a member shall hold office until he attains the age of sixty-two years.]

17. Retirement benefit :-

(1) A member who, at the time of his appointment as a member, was holding a pensionable post under a Government in a permanent capacity shall be eligible for pension in accordance with the rules for pension applicable to him at the time of his retirement.

(2) A member to whom sub-rule (1) does not apply shall be entitled to Contributory Provident Fund in accordance with the Contributory Provident Fund Rules (India), 1962.

(3) A member covered by sub-rule (2) on appointment in a

substantive capacity may within 3 months of his appointment in a substantive capacity, elect for pensionary benefits, and if no communication is received in the office of the Registrar of the Tribunal within this period, the member shall be deemed to have exercised his option to continue to subscribe to the Contributory Provident Fund, in which case he shall not be entitled to any pension,

(4) The declaration once made shall be final.

(5) A member recruited directly from the Bar shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one-fourth of the length of service or the actual period by which the age at the time of recruitment exceeded twenty five years, or a period of five years, whichever is less, provided that this concession shall not be admissible to a member unless the actual qualifying service at the time he quits Government service is not less than ten years.

18. Other conditions of service :-

The conditions of service of a member in respect of matters for which no provision is made in these rules shall be the same as may for the time being be applicable to other employees of the Government of India of a corresponding status.

19. Interpretation :-

If any question arises relating to the interpretation of these rules, the decision of the Central Government thereto shall be final.

20. Power to relax :-

Where the Central Government is of opinion that it is necessary or expedient so to do, it may by order for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

21. Saving :-

Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, ex-servicemen and other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard.