

No. 46/4/2014-R&R  
Government of India  
Ministry of Power  
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Shram Shakti Bhavan, Rafi Marg,  
New Delhi - 110 001 dated December 26, 2014

VACANCY CIRCULAR

The Appellate Tribunal for Electricity (APTEL) was set up at New Delhi by the Government of India under the provisions of the Electricity Act, 2003. The Tribunal consists of the Chairperson, one Judicial Member and three Technical Members including one Technical Member appointed under the Petroleum and Natural Gas Regulatory Board Act, 2006. Appointment to the posts of Chairperson and Members is governed by the relevant provisions of the Electricity Act and the Appellate Tribunal for Electricity (Salaries, Allowances and other Conditions of Service of Chairperson and Members) Rules, 2004 and the Appellate Tribunal for Electricity (Salaries, Allowances and other conditions of service of Chairperson and Members) (Amendment) Rules, 2008. One post of Technical Member in the Tribunal will fall vacant on 21.5.2015 when the present incumbent will demit office on attaining the maximum age of 65 years. It is proposed to fill up the anticipated vacancy.

2. In terms of section 113(1)(b)(ii) & (iii) read with explanation (ii) below section 112(3) of the Act, qualification of a person to be appointed Technical Member of the Appellate Tribunal is as follows:

a) he or she is, or has been, a Secretary for at least one year in the Ministry or Department of the Central Government dealing with economic affairs or matters or infrastructure; or

b) he or she is, or has been, a person of ability and standing, having adequate knowledge or experience in dealing with the matters relating to electricity generation, transmission and distribution and regulation or economics, commerce, law or management.

3. Under the provisions of section 114 of the Act, a Member shall hold office for a term of three years from the date on which he or she assumes office or till he or she attains the age of sixty-five years, whichever is earlier. The Member shall also be eligible for reappointment for a second term of three years subject to the maximum age of 65 years. The prospective candidate has also to give a declaration in the prescribed proforma that he/she does not have any financial or other interest, which is likely to affect prejudicially his/her functioning as Member of the Appellate Tribunal for Electricity.

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4. A copy of the relevant extracts of the Electricity Act, 2003 relating to the requirement of qualifications, experience, etc. for Member, Appellate Tribunal, a copy each of the Appellate Tribunal for Electricity (Salaries, Allowances and other Conditions of Service of Chairperson and Members) Rules, 2004, the Appellate Tribunal for Electricity (Salaries, Allowances and other conditions of service of Chairperson and Members) (Amendment) Rules, 2008 and the proforma of declaration are available at Ministry's website [www.powermin.nic.in](http://www.powermin.nic.in) and the website of DoPT [www.persmin.nic.in](http://www.persmin.nic.in).

5. Applications/ nominations are invited from suitable persons having qualification and experience as prescribed in the Act for appointment as Technical Member of APTEL so as to reach this Ministry within six weeks from the date of publication of this vacancy circular in the Employment News, addressed to Director (R&R), Ministry of Power, 2<sup>nd</sup> Floor, Room No. 220A, Shram Shakti Bhawan, New Delhi 110001.

Sd/-  
**(Rajendra Singh)**  
Under Secretary to the Govt of India  
Tel : 2373 0265

## **Declaration**

I ..... hereby declare that I do not have any financial or other interest, which is likely to affect prejudicially my function as Member, Appellate Tribunal for Electricity, in the event of my selection.

(Signature of Applicant)

### **Extracts from Electricity Act, 2003**

Sec.78. (1) The Central Government shall, for the purposes of selecting the Members of the Appellate Tribunal and the Chairperson and Members of the Central Commission, constitute a Selection Committee consisting of –

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| (a) Member of the Planning Commission<br>incharge of the energy sector .....   | Chairperson; |
| (b) Secretary-in-charge of the Ministry of the Central<br>Government dealing with the Department<br>of the Legal Affairs ..... | Member;      |
| (c) Chairperson of the Public Enterprises Selection Board .....  | Member;      |
| (d) a person to be nominated by the Central Government<br>in accordance with sub-section (2) .....                             | Member ;     |
| (e) a person to be nominated by the Central<br>Government in accordance with sub-section (3) .....                             | Member ;     |
| (f) Secretary-in-charge of the Ministry of the Central<br>Government dealing with power .....                                  | Member.      |

(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of chairperson or managing director, by whatever name called, of any public financial institution specified in section 4A of the Companies Act, 1956.

(3) For the purposes of clause (e) of sub-section (1), the Central Government shall, by notification, nominate from amongst persons holding the post of director or the head of the institution, by whatever name called, of any research, technical or management institution for this purpose.

(4) Secretary-in-charge of the Ministry of the Central Government dealing with Power shall be the Convenor of the Selection Committee.

(5) The Central Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of a Member of the Appellate Tribunal or the Chairperson or a Member of the Central Commission and six months before the superannuation or end of tenure of the Member of the Appellate Tribunal or Member of the Central Commission, make a reference to the Selection Committee for filling up of the vacancy.

(6) The Selection Committee shall finalise the selection of the Chairperson and Members referred to in sub-section (5) within three month from the date on which the reference is made to it.

(7) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(8) Before recommending any person for appointment as Member of the Appellate

Tribunal or the Chairperson or other Member of the Central Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as the Chairperson or Member.

(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee:

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson of the Central Commission where such person is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court.

Section 110. The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Appellate Tribunal for Electricity to hear appeals against the orders of the adjudicating officer or the Appropriate Commission under this Act.

Section 111. (1) Any person aggrieved by an order made by an adjudicating officer under this Act (except under section 127) or an order made by the Appropriate Commission under this Act may prefer an appeal to the Appellate Tribunal for Electricity:

Provided that any person appealing against the order of the adjudicating officer levying and penalty shall, while filling the appeal, deposit the amount of such penalty:

Provided further that where in any particular case, the Appellate Tribunal is of the opinion that the deposit of such penalty would cause undue hardship to such person, it may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realisation of penalty.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the adjudicating officer or the Appropriate Commission is received by the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer or the Appropriate Commission, as the case may be.

(5) The appeal filed before the Appellate Tribunal under sub-section

(1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within one hundred and eighty days from the date of receipt of the appeal:

Provided that where any appeal could not be disposed off within the said period of one hundred and eighty days, the Appellate Tribunal shall record its reasons in writing for not disposing of the appeal within the said period.

(6) The Appellate Tribunal may, for the purpose of examining the legality, propriety or

correctness of any order made by the adjudicating officer or legality, propriety or correctness of any order made by the adjudicating officer or the Appropriate Commission under this Act, as the case may be, in relation to any proceeding, on its own motion or otherwise, call for the records of such proceedings and make such order in the case as it thinks fit.

Section 112. (1) The Appellate Tribunal shall consist of a Chairperson and three other Members.

(2) Subject to the provisions of this Act,-

(a) the jurisdiction of the Appellate Tribunal may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Appellate Tribunal with two or more Members of the Appellate Tribunal as the Chairperson of the Appellate Tribunal may deem fit:

Provided that every Bench constituted under this clause shall include at least one Judicial Member and one Technical Member;

(c) the Benches of the Appellate Tribunal shall ordinarily sit at Delhi and such other places as the Central Government may, in consultation with the Chairperson of the Appellate Tribunal, notify;

(d) the Central Government shall notify the areas in relation to which each Bench of the Appellate Tribunal may exercise jurisdiction.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson of the Appellate Tribunal may transfer a Member of the Appellate Tribunal from one Bench to another Bench.

*Explanation.-* For the purposes of this Chapter,-

(i) "Judicial Member" means a Member of the Appellate Tribunal appointed as such under sub-clause (i) of clause (b) of sub-section (1) of section 113, and includes the Chairperson of the Appellate Tribunal;

(ii) "Technical Member" means a Member of the Appellate Tribunal appointed as such under sub-clause (ii) or sub-clause (iii) of clause (b) of sub-section (1) of section 113.

Section 113. (1) A person shall not be qualified for appointment as the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal unless he-

(a) in the case of the Chairperson of the Appellate Tribunal, is, or has been, a judge of the Supreme Court or the Chief Justice of a High Court; and

(b) in the case of a Member of the Appellate Tribunal,-

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

is, or has been, a Secretary for at least one year in the Ministry or Department of the Central Government dealing with economic affairs or matters or infrastructure; or

is, or has been, a person of ability and standing, having adequate knowledge or experience in dealing with the matters relating to electricity generation, transmission and

distribution and regulation or economics, commerce, law or management.

(2) The Chairperson of the Appellate Tribunal shall be appointed by the Central Government after consultation with the Chief Justice of India.

(3) The Members of the Appellate Tribunal shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 78.

(4) Before appointing any person for appointment as Chairperson or other Member of the Appellate Tribunal, the Central Government shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member.

Section 114. The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall hold office as such for a term of three years from the date on which he enters upon his office:

Provided that such Chairperson or other Member shall be eligible for reappointment for a second term of three years:

Provided further that no Chairperson of the Appellate Tribunal or Member of the Appellate Tribunal shall hold office as such after he has attained,-

(a) in the case of the Chairperson of the Appellate Tribunal, the age of seventy years;

(b) in the case of a Member of the Appellate Tribunal, the age of sixty-five years.

### **Terms and conditions of service**

Section 115. The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson of the Appellate Tribunal and Members of the Appellate Tribunal shall be such as may be prescribed by the Central Government :

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

Vacancies.

Section 116. If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

### **Resignation and removal**

Section 117. (1) The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of term of office, whichever is the earliest.

(2) The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an enquiry made by a judge of the Supreme Court as the Central Government may appoint for this purpose in which the Chairperson or a Member of the Appellate Tribunal concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.

Member to act as Chairperson in certain circumstances.

Section 118. (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the Appellate Tribunal by reason of his death, resignation or otherwise, the senior-most Member of the Appellate Tribunal shall act as the Chairperson of the Appellate Tribunal until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Chairperson of the Appellate Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the seniormost Member of the Appellate Tribunal shall discharge the functions of the Chairperson of the Appellate Tribunal until the date on which the Chairperson of the Appellate Tribunal resumes his duties.

### **Officers and other employees of Appellate Tribunal**

Section 119. (1) The Central Government shall provide the Appellate Tribunal with such officers and other employees as it may deem fit.

(2) The officers and other employees of the Appellate Tribunal shall discharge their functions under the general superintendence of the Chairperson of the Appellate Tribunal.

(3) The salaries and allowances and other terms and conditions of service of the officers and other employees of the Appellate Tribunal shall be such as may be prescribed by the Central Government.

### **Procedure and powers of Appellate Tribunal**

Section 120. (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;



- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;
  - (e) issuing commissions for the examination of witnesses or documents;
  - (f) reviewing its decisions;
  - (g) dismissing a representation of default or deciding it *ex parte*;
  - (h) setting aside any order of dismissal or any representation for default or any order passed by it *ex parte*;
  - (i) any other matter which may be prescribed by the Central Government.
- (3) An order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court and, for this purpose, the Appellate Tribunal shall have all the powers of a civil court.
- (4) Notwithstanding anything contained in sub-section (3), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.
- (5) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 345 and 346 of the Code of Criminal Procedure, 1973 .

### **Power of Chairperson of Appellate Tribunal Distribution of business amongst Benches and transfer of cases from one Bench to another Bench**

**Section 121.** The Chairperson of the Appellate Tribunal shall exercise general power of super-intendance and control over the Appropriate Commission.

**Section 122.** (1) Where Benches are constituted, the Chairperson of the Appellate Tribunal may, from time to time, by notification, make provisions as to the distribution of the business of the Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with by each Bench.

(2) 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 Chairperson of the Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

### **Decision to be by majority.**

Section 123. If the Members of the Appellate Tribunal of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Appellate Tribunal 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 Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Appellate Tribunal who have heard the case, including those who first heard it.

### **Right of appellant to take assistance of legal practitioner and of Appropriate Commission to appoint presenting officers.**

Section 124. (1) A person preferring an appeal to the Appellate Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Appellate Tribunal, as the case may be.

(2) The Appropriate Commission may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before the Appellate Tribunal, as the case may be.