

Bill Summary

The Armed Forces Tribunal Bill, 2005

- The Armed Forces Tribunal Bill, 2005 was introduced in the Rajya Sabha on December 20, 2005. The Bill was referred to the Standing Committee on Defence (Chairperson: Balasaheb Vikhe Patil) on December 27, 2005.
- The Bill seeks to establish an Armed Forces Tribunal to adjudicate on disputes relating to service matters and appeals arising out of verdicts of courts- martial of members of the Army, Navy and the Air Force.
- The Armed Forces Tribunal comprising a Chairperson and judicial and administrative members shall be established by the central government. The chairperson and members shall be appointed by the President in consultation with the Chief Justice of India and may be removed from office only under specified circumstances.
- A person aggrieved by an order pertaining to any service matter may make an application to the Tribunal. Service matters are in relation to persons subject to the Army Act, 1950, the Navy Act, 1957, and the Air Force Act, 1950 and include remuneration, tenure, leave, training, promotion and trials.
- The Tribunal, after an inquiry shall admit the application if it is satisfied that the application is fit for adjudication. An application shall be admitted only if the applicant has exhausted all remedies available to him under the Army Act, 1950, the Navy Act, 1957, and the Air Force Act, 1950.
- Matters relating to court martial
 - The Tribunal shall have jurisdiction relating to any appeal against orders or sentences passed by a court martial. The Tribunal shall allow an appeal against any conviction by a court martial if (a) the findings of the court martial are not legally sustainable, (b) there was a wrong decision on a question of law, or (c) there was a miscarriage of justice.
 - The Tribunal has the power to grant bail to any person accused of an offence and in military custody.
 - The Tribunal may substitute a finding of guilty for the findings of a court martial.
 - If the sentence is unjust, the Tribunal may remit the whole or part of the sentence, commute the punishment to any lesser punishment, enhance the sentence awarded, release the appellant on parole, suspend the sentence or pass any other order.
 - The Tribunal can quash a conviction and order a retrial by court martial.
- The Tribunal shall have the powers vested in a Civil Court in matters relating to enforcing attendance of any person and examining him under oath, requiring production of documents, reviewing its decisions etc.
- The Tribunal shall not be bound by the Code of Civil Procedure and has the power to regulate its own procedure including fixing of place and time of inquiry and deciding whether to sit in public or in camera. It has the power to punish with imprisonment upto three years for contempt of the Tribunal.
- The Chairperson may distribute business among the benches of the Tribunal and can transfer any case pending before one bench to another bench. Decisions of the bench will be made by majority, and in case of a tie, the matter shall be referred to the Chairperson.
- An appeal against the final decision or order of the Tribunal shall lie with the Supreme Court. Leave for an appeal shall be granted only if the Tribunal certifies that a point of law of general public importance is involved or if the Supreme Court thinks that the point should be considered by it.
- No civil court shall exercise jurisdiction of service matters falling within the jurisdiction of the Tribunal and all pending cases shall be transferred to the Tribunal once it is established.

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