

**Bill No. XXXII of 2012**

THE ARMED FORCES TRIBUNAL (AMENDMENT) BILL, 2012

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**BILL**

*to amend the Armed Forces Tribunal Act, 2007.*

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Armed Forces Tribunal (Amendment) Act, 2012.

Short title  
and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

55 of 2007. 5

**2.** For section 8 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Substitution of  
new section  
for section 8.

“8. The Chairperson or a Member of the Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office but they shall not be eligible for reappointment:

Term of office  
of Chairperson  
or Member.

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Provided that no Chairperson shall hold the office after he has attained,—

(a) in case he has been a Judge of the Supreme Court, the age of seventy years; and

(b) in case he has been the Chief Justice of a High Court, the age of sixty-seven years:

Provided further that no Judicial Member shall hold the office as such Judicial Member after he has attained the age of sixty-seven years:

Provided also that no Administrative Member shall hold office as such Administrative Member after he has attained the age of sixty-five years.”.

Substitution of new section for section 19.  
Power to punish for contempt.

3. For section 19 of the principal Act, the following section shall be substituted, namely:— 5

“19. The Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 shall have effect subject to the modifications that— 70 of 1971. 10

(a) the references therein to a High Court shall be construed as including a reference to such Tribunal;

(b) the references to the Advocate-General in section 15 of the said Act shall be construed in relation to the Armed Forces Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General. 15

## STATEMENT OF OBJECTS AND REASONS

The Armed Forces Tribunal Act was enacted in 2007 to provide for adjudication or trial by the Armed Forces Tribunal of disputes and complaints with respect to commission, appointments, enrolment and conditions of service in respect of persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950 and also to provide for appeals arising out of orders, findings or sentences of court martial held under the said Acts and for matters connected therewith or incidental thereto.

2. The Armed Forces Tribunal Act, 2007 came into force with effect from the 15th June, 2008 with a view to provide for quicker and less expensive justice to the members of the three services (Army, Navy and Air Force). The Principal Bench of the Armed Forces Tribunal has started functioning in Delhi from the 10th August, 2009. Regional Benches of the said Tribunal at eight places, namely, Jaipur, Chandigarh, Lucknow, Guwahati, Kolkata, Chennai, Kochi and Mumbai, have also started functioning subsequently.

3. Under the existing provisions contained in section 8 of the Armed Forces Tribunal Act, the Chairperson or a Member of a Tribunal shall hold office for a period of four years from the date on which he enters upon his office and shall be eligible for reappointment. However, no Chairperson shall hold office as such after he has attained— (a) in case he has been a Judge of the Supreme Court, the age of seventy years; and (b) in case he has been the Chief Justice of a High Court, the age of sixty-five years. It further provides that the Members, both Judicial and Administrative, shall hold office until they attained the age of sixty-five years. The Judicial Members are not completing their term of office and thus vacancies are arising frequently on regular basis in the Tribunal.

4. It is, therefore, proposed to change the term of office of the Chairperson and Members from four years to five years from the date on which they enter upon their office and shall not be eligible for reappointment. It is further proposed to enhance the age limit of the Chairperson, in case he has been the Chief Justice of a High Court, from sixty-five years to sixty-seven years. In order to avoid repeated selection of Members for short tenures so as to provide the Tribunal with stability and continuity, it is also proposed to enhance the age limit of Judicial Member from sixty-five years to sixty-seven years.

5. Section 19 of the Armed Forces Tribunal Act enables the Tribunal to punish for criminal contempt only and not for civil contempt. The aforesaid Act in its present form does not contain any provision for the execution of the orders finally passed by the Tribunal. As a result of which cases involving serious questions of law of public importance are to be taken to the Supreme Court for appropriate directions. It is, therefore, proposed to confer powers of civil contempt to the said Tribunal in addition to the existing powers of criminal contempt. The proposed amendment would give the same jurisdiction, powers and authority to the said Tribunal in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971, shall have effect subject to certain modifications mentioned in the Bill.

6. The Bill seeks to achieve the above objects.

NEW DELHI;  
*The 25th June, 2012.*

A.K. ANTONY.

ANNEXURE

EXTRACTS FROM THE ARMED FORCES TRIBUNAL ACT, 2007

(55 OF 2007)

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Term of office.

**8.** The Chairperson or a Member shall hold office for a term of four years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no Chairperson shall hold office as such after he has attained,—

(a) in case he has been a Judge of the Supreme Court, the age of seventy years; and

(b) in case he has been the Chief Justice of a High Court, the age of sixty-five years:

Provided further that no other Member shall hold office as such Member after he has attained the age of sixty-five years.

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Power to punish for contempt.

**19.** (1) Any person who is guilty of contempt of the Tribunal by using any insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such Tribunal shall, on conviction, be liable to suffer imprisonment for a term which may extend to three years.

(2) For the purposes of trying an offence under this section, the provisions of sections 14, 15, 17, 18 and 20 of the Contempt of Courts Act, 1971 shall *mutatis mutandis* apply, as if a reference therein to—

(a) Supreme Court or High Court were a reference to the Tribunal;

(b) Chief Justice were a reference to the Chairperson;

(c) Judge were a reference to the Judicial or Administrative Member of the Tribunal;

(d) Advocate-General were a reference to the prosecutor; and

(e) Court were a reference to the Tribunal.

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RAJYA SABHA

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to amend the Armed Forces Tribunal Act, 2007.

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*( Shri A.K. Antony, Minister of Defence )*