

## **ASSAM ADMINISTRATIVE TRIBUNAL REGULATIONS, 1977**

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## **ASSAM ADMINISTRATIVE TRIBUNAL REGULATIONS, 1977**

In exercise of the powers conferred by sub-S. (1) of S. 13 of the Assam Administrative Tribunal Act, 1977 (Assam Act No. VIII of

1977) the Assam Administrative Tribunal with the previous sanction of the State Government hereby makes the following Regulations for regulating its procedure and disposal of its business.

#### CHAPTER 1

General provision

##### **1. Title :-**

These Regulations may be called the Assam Administrative Tribunal Regulations, 1977.

##### **2. Commencement :-**

These Regulations shall come into force with immediate effect.

##### **3. Interpretation :-**

(2) The provisions of the Assam General Clauses Act, 1915 (Act 2 of 1915) "shall apply, as far as may be, as to those regulations in the same manner as they apply to an Act passed by the State Legislature.

#### CHAPTER 2

Office of the Tribunal and sitting of members

##### **4. Head office :-**

The head office of the Tribunal shall be at Gauhati ; provided that the Tribunal may at any time, by notification in the Official Gazette, transfer the Head Office to any other place in the State of Assam.

##### **5. . :-**

Notwithstanding anything contained in Regulation 4, the Chairman may direct that any case be heard in any place that he may consider suitable, within the State of Assam.

#### CHAPTER 3

Presentation, registration and admission of appeals

##### **6. Procedure for filing memorandum of appeal :-**

(1) A memorandum of appeal to the Tribunal may be presented by the appellant or his authorised representative or an advocate in person to the Registrar during office hours at the headquarters of the Tribunal or may be sent by the appellant by registered post to the Registrar at the headquarters of the Tribunal

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(2) A memorandum of appeal sent by post under sub-S. (1) shall be deemed to have been presented to the Registrar on the date of

its receipts in the office of the Tribunal at its headquarters.

**7. Date of presentation of appeal :-**

The Registrar shall endorse on every memorandum of appeal the date on which it has been presented or is deemed to have been presented under Regulation 6 and shall sign the endorsement.

**8. Receipt Slip :-**

The appellant may attach to and present with his memorandum of appeal a receipt slip (as in Form No. 2) which shall be signed by a person nominated by the Registrar in acknowledgment of the receipt of the memorandum of appeal.

**9. Contents of the memorandum of appeal :-**

Every memorandum of appeal shall be in FORM1 and shall

(i) state the name and address of the appellant.

(ii) state the name and address (to the extent known) of the necessary respondent ; and

(iii) set out concisely and under distinct heads and grounds of appeal without any argument or narrative.

**10. Signing of memorandum of appeal :-**

The appellant himself shall sign or put his thumb impression on the memorandum of appeal.

**11. . :-**

Copies of memorandum of appeal to be presented to the Tribunal. Along with the memorandum of appeal the appellant shall submit the following number of copies of the memorandum of appeal along with its annexures to the Registrar :

(i) three copies for the Tribunal, and

(ii) as many copies as there are respondents in the case.

**12. What to accompany memorandum of appeal :-**

Every memorandum of appeal shall be accompanied by

(i) a certified copy of the order appealed against ;

(ii) where the appellant, for reasons beyond his control, is not in a position to furnish a duly certified copy of the order under item (i) above, the appeal shall be accompanied by an affidavit stating the reasons therefor ; and

(iii) copy or copies of the document/documents on which the appellant wishes to rely along with a list of the documents.

**13. Filing of affidavits :-**

Where a fact as alleged in the appeal or reply thereof cannot be born; out by, or is contrary to the record, it shall be stated clearly and supported by an affidavit. Scrutiny

**14. Scrutiny :-**

(2) If it appears to the Registrar that the memorandum of appeal presented to him does not comply with any of the said provisions he shall return the same to the appellant with an endorsement specifically pointing out the defect(s) on account of which the memorandum of appeal could not be registered. If the defects are such as can be remedied, the endorsement shall also state that the appeal may be re-filed by the appellant within a period of fifteen days from the date of endorsement after curing the defects pointed out therein.

(3) If the party concerned or his agent or Advocate re-files the appeal within the period stated in sub-regulation (2) after curing all the defects pointed out, the appeal shall be registered as aforesaid.

(4) If the party concerned or his agent or Advocate re-files the appeal after the period stated in sub-regulation (2), or fails to remedy or explain any of the defects pointed out while re-filing the appeal the Registrar shall place it before the Tribunal for orders.

**15. Admissibility of the appeal :-**

After the Registrar had scrutinised the appeal as aforesaid and registered it, or reserved it for order of the Tribunal under Regulation 14 (4), it shall be placed before the Bench nominated by the Chairman or in his absence by the member authorised by the Chairman for the purpose and the Bench may

(i) admit the appeal forthwith ; or

(ii) hear the appellant on the question of admission and after hearing him either admit the appeal or dismiss the same.

**16. Stay of execution of order :-**

Pending final decision on an appeal or application, the Tribunal may direct that the execution of any order against which the appeal or application is made be stayed on such conditions, if any, as it may lay down.

## CHAPTER 4

### Service of summons

#### **17. Summoning of respondent and production of record :-**

On the admission of an appeal, the Bench shall order for

(i) issue of summons in FORM 3 to the respondents considered necessary parties by the Bench. Explanation. In case any order passed by the Government has been challenged, the summons shall be issued to the Secretary to the Government in the Department concerned. In case the order challenged has been passed by any officer of any department, the summons shall be issued to such an officer, and also to the Head of the Department concerned ; and

(ii) production within the period laid down by the Bench of the record considered necessary by the Bench for the hearing and disposal of the appeal.

#### **18. What to accompany the summons to respondents :-**

Along with the copy of the summons to the respondent, a copy of the memorandum of appeal along with all its enclosures shall be sent to the respondent.

#### **19. Service of summons :-**

Every summons shall be served

#### **20. Reply of respondent :-**

(1) In the summons issued to the respondent, the time allowed for reply shall be stated and written reply, if any, shall be filed within the prescribed time unless the time for doing so is extended by the Bench.

(2) The respondent shall submit 3 copies of the written reply for the Tribunal and one copy for the appellant.

## CHAPTER 5

### Hearing, adjournment and decision

#### **21. Discovery and production of documents :-**

On the request of the party the Bench may require the discovery or production of any document ; provided it is relevant to the hearing and disposal of the appeal. Inspection of documents and records

#### **22. Inspection of documents and records :-**

On application of party, the Registrar may permit the inspection of records and the documents relevant to the case and in the

possession of the Tribunal.

**23. Dismissal on non-appearance of appellant :-**

On the non-appearance of the appellant or his duly authorised representative or advocate, the Bench may dismiss the appeal or pass any other order as it thinks fit.

**24. Restoration of appeal :-**

On sufficient grounds being shown, the Bench may restore an appeal dismissed under Regulation 23 if the application for restoration is made within 30 days of the order passed : Provided that it shall not be necessary to hear the respondent in such a case if he had not appeared at all or if he too was absent on the day the dismissal order was passed.

**25. Ex parte proceedings against respondent :-**

If the respondent does not submit the reply within the time mentioned in the summons or extended by the Bench or the respondent or his authorised representative or advocate does not appear on the day of hearing, the Bench may proceed ex parte against him.

**26. Setting aside of ex parte order :-**

On sufficient grounds being shown the Bench may rescind its ex parte order passed under Regulation 25 : Provided that no such order shall be passed unless notice of the application has been served on the appellant.

**27. Adjournment :-**

Except for the reasons to be recorded in writing, the Bench shall hear an appeal from day to day. On sufficient cause being shown it may grant adjournment subject to such costs or other conditions as are considered appropriate by the Bench.

**28. Appearance before a Bench :-**

A party may appear before a Bench either personally or through his representative duly authorised in Form No 4 or through an advocate. For appearance through advocate duly stamped Vakalatnama shall be needed.

**29. Arguments :-**

The parties may, either personally or through their authorised representatives or advocates submit orally or in writing or in both, their arguments before the Bench. The appellant shall not, except by leave of the Bench, urge or be heard in support of any ground

not set forth in the memorandum of appeal.

**30. Fresh evidence :-**

(1) No party to. an appeal or an application shall be entitled to adduce fresh evidence, whether oral or documentary, before the Tribunal. The Tribunal may, however, at any stage accept documents tendered by a party or call for any documents, if it is of opinion that they are necessary for deciding the appeal or application ; provided that the other party shall in that case be entitled to produce rebutting evidence.

(2) A party desiring to produce such documents or affidavit shall file three copies of the same on a date at least seven days ahead of the date of hearing and shall at the same time serve an additional copy thereof on each of the respondents or opposite parties.

(4) Where fresh evidence has been adduced under sub-regulation (1) or a further investigation is made or additional evidence is taken under sub-regulation (3), the parties shall be entitled to address the Tribunal on points arising out of the fresh or additional evidence or further investigation.

**31. Order :-**

(1) The order of the Bench shall be in writing and shall state the points of determination, its findings thereon and the reasons for these findings in a concise manner.

(2) Copies of decision. A copy of the final order passed by the Tribunal on any appeal or application shall be sent by the Registrar as soon as practicable to the authority concerned. Parties may have copy on payment of the fee as laid down in Regulation 40.

**32. Continuation of proceeding after the death of a party :-**

An appeal shall abate, unless on the death of appellant the right survives and his legal representative applies for its continuance to the Tribunal within a period of thirty days from the date of the death of the appellant. In the event of the death of any respondent, his legal representative, if he so desires, may apply, if the right has survived, for being impleaded as a party within a period of thirty days from the date of the death of the respondent.

**33. No abatement by reason of death after hearing :-**

Notwithstanding anything contained in Regulation 32 there shall be no abatement by reason of the death of any party, between the

conclusion of the hearing and the passing of the order of the Tribunal and the order may, in such case, be passed notwithstanding the death, and shall have the same force and effect as if it had been made before the death took place.

**34. Determination of legal representative :-**

If a question arises in appeal or application, whether a person, is or is not the legal representative of a deceased party, such question may be determined by the Tribunal in a summary way after taking evidence, if necessary.

**35. . :-**

When abatement or dismissal under Regulation 32 may be set aside. Where an appeal or application has abated or has been dismissed under Regulation 32 the appellant or applicant or a person claiming to be the legal representative of a deceased appellant or applicant, as the case may be, may apply within sixty days from the date of abatement or dismissal of the appeal or application to have the abatement or dismissal set aside, and if it is proved to the satisfaction of the Tribunal that he was prevented by sufficient cause from applying within time, the abatement or dismissal shall be set aside by the Tribunal and the application proceeded with : Provided that an application under this Regulation may be admitted even after the aforesaid period of sixty days from the date of abatement or dismissal, where the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

**CHAPTER 6**

Records, inspection, search and copies

**36. Records :-**

The records of the Tribunal shall be kept in the custody of the Registrar.

**37. Application for inspection :-**

Any person who has a right to inspect a record under the provisions of the Indian Evidence Act, 1872, or under any other law for the time being in force, or to obtain copies of any records of the Tribunal or extracts therefrom, and if he so desires, he shall make an application in writing to the Registrar stating therein the purpose for which the said request is made. Such application shall be accompanied by the copying fee or inspection fee, as the case may be, as provided in these Regulations.

**38. Grant of application for inspection :-**

It the Registrar is satisfied thall the application is in order and is accompanied by the necessary fee, he shat grant the application.

**39. Procedure after grant of application for inspection :-**

(2) No inspection of any records of the Tribunal shall be allowed except in the presence of an official of the Tribunal appointed in that behalf by the Registrar.

**40. Application for copies of information :-**

Rules laid down in Section V Assam Record Hand Book, 1925 (Reprinted 1958), as amended from time to time, shall be followed mutatis mutandis for granting of copies of information, unless otherwise provided for in any Act or Rules framed thereunder.

**41. Appointment and remuneration of section writers :-**

The Tribunal may appoint section writers for copying documents. The section writers' accounts will be made out monthly and the amount due to each paid out of contingencies. In matter of payment, the procedure outlined in Section V of the Assam Record Hand Book, 1925 (Reprinted 1958), shall be followed.

**42. Register of application :-**

A Register of applications for copies shall be mentioned in the form given in Appendix XIX of the Assam Reccord Hand Book, 1925 (Reprinted 1958).

**43. Documents to be returned to parties. :-**

The certified or original copies of documents filed with the appeal or application or called for by the Tribunal shall be returned to the party or authority concerned, as soon as may be practicable, after the final disposal of the appeal or application.

**CHAPTER 7**

**Constitution of Benches**

**44. Constitution of Bench :-**

(es).

(1) The Chairman or in his absence, the manager to be nominated by him, may, by special or-general order, direct the constitution of Bench or Benches comprising of two or more members.

(2) All appeals shall normally be heard by a Division Bench : Provided that if the Chairman be of the opinion that an appeal involves a substantial question of law, he may refer the appeal for

hearing by a Full Bench.

**45. Sitting of Bench :-**

A Bench shall hold its sittings at its headquarter or at such other place as may be considered convenient by the Chairman, or in his absence, the member to be nominated by the Chairman, under Regulation 44.

**46. Procedure when difference arises between one Division Bench and another. :-**

Whenever one Division Bench differs from any other Division Bench on a point of law or usage having the force of law, the case shall be referred for decision by a Full Bench.

**47. The effect of decision of a Full Bench. :-**

Every decision of a Full Bench shall be treated as binding on Division Bench on a point of law or usage having the force of law, determined by a Full Bench.

**48. Power of the Chairman to transfer any case from one Division Bench to another. :-**

The Chairman may withdraw any case pending before any Division Bench to himself and transfer it to any other Division Bench.

**CHAPTER 8**

**Miscellaneous**

**49. . :-**

The Chairman or such member as nominated by him shall remain in charge of the day to day administration of the office of the Tribunal.

**50. Performance of duties during Chairmans absence from headquarters. :-**

The Chairman may nominate any member to perform any of the duties to be performed by him under these Regulations during his absence from the headquarter.

**51. Functions of Registrar :-**

The Registrar shall perform such functions as are assigned to him by these Regulations or by the Chairman.

**52. Maintenance of Registers :-**

The Registrar shall maintain separate registers for

(i) Appeals in Form 5 ;

- (ii) Applications for review in Form 6 ;
- (iii) Applications for restoration in Form 7 ;
- (iv) Applications to set aside ex parte order in Form 8.

**53. Functions of members of office staff :-**

The members of the office staff of the Tribunal shall perform such functions as are assigned to them by the Chairman or with the permission of the Chairman by the Registrar.

**54. Court fees :-**

All appeals, Vakalatnamas and applications shall bear court fee stamps of the amount as provided for by or under the law.

**55. Register of Court-fees :-**

The Tribunal shall appoint one of the members of its office staff for the purpose of cancelling court-fee stamps as required under S. 30 of the Indian Court-fees Act. The officer so appointed shall examine the court-fee stamp when received and satisfy himself that it is unused. He shall then punch the court-fee stamp and put down a serial number in the stamp in red ink. He shall also sign the court-fee stamp and put down the date. Thereafter he shall enter the court-fee serially in a register to be maintained for that purpose. The court-fee shall be totalled daily and a progressive total since the beginning of the year shall also be struck. The Registrar shall check the entries in the Register and initial the total daily.

**56. Holiday list of the Tribunal :-**

The Tribunal shall observe the list of holidays prescribed by the State Government.

**57. Days of judicial work :-**

The Tribunal shall transact judicial work on such days as may be fixed by the Chairman by general or special order.

**58. Seal of the Tribunal :-**

The Tribunal shall have an office seal of its own, which shall be kept in the custody of the Registrar.

**59. All summons etc :-**

to be signed and sealed. Every summons, notice, or other process shall be signed by the Registrar with the date of signing and shall be sealed with the Official seal of the Tribunal.

**60. Agent and Advocate required to have proper authority**

**to present appeal etc. :-**

No agent or advocate shall present a memorandum of appeal or application or appear or act for any party in appeal or application made to the Tribunal unless he has been appointed for the purpose by such party by a document in writing signed by such party or by some person duly authorised by a power of attorney to make such appointment.

**61. Tribunal to follow provisions of Civil Procedure Code in matters not provided for in these Regulations. :-**

The Tribunal shall, in any matter not provided for in these Regulations, follow the procedure, as far as it is applicable, laid down in the Code of Civil Procedure, 1908.