

¹[Section 110 : President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.]

- 1 Section 110 substituted by The Finance Act, 2023, effective date yet to be notified. Earlier to substitution it read as under:

“Section 110 : President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.

- (1) A person shall not be qualified for appointment as—
- (a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years;
 - (b) a Judicial Member, unless he—
 - (i) has been a Judge of the High Court; or
 - (ii) is or has been a District Judge qualified to be appointed as a Judge of a High Court; or
 - (iii) is or has been a Member of Indian Legal Service and has held a post not less than Additional Secretary for three years;
 - (c) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;
 - (d) a Technical Member (State) unless he is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.
- (2) The President and the Judicial Members of the National Bench and the Regional Benches shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:
- Provided** that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:
- Provided further** that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Bench shall discharge the functions of the President until the date on which the President resumes his duties.
- (3) The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.
- (4) The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High Court of the State or his nominee.

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- (5) The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and Technical Member (State) of the State Bench or Area Benches shall be appointed by the State Government in such manner as may be prescribed.
- (6) No appointment of the Members of the Appellate Tribunal shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.
- (7) Before appointing any person as the President or Members of the Appellate Tribunal, the Central Government or, as the case may be, the State Government, shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.
- (8) The salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal shall be such as may be prescribed:
Provided that neither salary and allowances nor other terms and conditions of service of the President, State President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment.
- (9) The President of the Appellate Tribunal shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall be eligible for reappointment.
- (10) The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.
- (11) The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.
- (12) The President, State President or any Member may, by notice in writing under his hand addressed to the Central Government or, as the case may be, the State Government resign from his office:
Provided that the President, State President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government, or, as the case may be, the State Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.
- (13) The Central Government may, after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, and the State Government may, after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches, may remove from the office such President or Member, who —
(a) has been adjudged an insolvent; or

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- (1) A person shall not be qualified for appointment as-
- (a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court;
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- (b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or
 - (c) has become physically or mentally incapable of acting as such President, State President or Member; or
 - (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, State President or Member; or
 - (e) has so abused his position as to render his continuance in office prejudicial to the public interest:
- Provided** that the President, State President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.
- (14) Without prejudice to the provisions of sub-section (13), —
- (a) the President or a Judicial and Technical Member of the National Bench or Regional Benches, Technical Member (Centre) of the State Bench or Area Benches shall not be removed from their office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government and of which the President or the said Member had been given an opportunity of being heard;
 - (b) the Judicial Member or Technical Member (State) of the State Bench or Area Benches shall not be removed from their office except by an order made by the State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the concerned High Court nominated by the Chief Justice of the concerned High Court on a reference made to him by the State Government and of which the said Member had been given an opportunity of being heard.
- (15) The Central Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or a Judicial or Technical Members of the National Bench or the Regional Benches or the Technical Member (Centre) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (14).
- (16) The State Government, with the concurrence of the Chief Justice of the High Court, may suspend from office, a Judicial Member or Technical Member (State) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the High Court under sub-section (14).
- (17) Subject to the provisions of article 220 of the Constitution, the President, State President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Bench and the Regional Benches or the State Bench and the Area Benches thereof where he was the President or, as the case may be, a Member.”

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- (b) a Judicial Member, unless he-
- (i) has been a Judge of the High Court; or
 - (ii) has, for a combined period of ten years, been a District Judge or an Additional District Judge;
 - ²[(iii) has been an advocate for ten years with substantial experience in litigation in matters relating to indirect taxes in the Appellate Tribunal, Customs, Excise and Service Tax Appellate Tribunal, State Value Added Tax Tribunal, by whatever name called, High Court or Supreme Court;]
- (c) a Technical Member (Centre), unless he is or has been a member of the Indian Revenue (Customs and indirect Taxes) Service, Group A, or of the All India Service with at least three years of experience in the administration of an existing law or goods and services tax in the Central Government, and has completed at least twenty-five years of service in Group A;
- (d) a Technical Member (State), unless he is or has been an officer of the State Government or an officer of the All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:

Provided that the State Government may, on the recommendations of the Council, by notification, relax the requirement of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification.

- (2) The President, Judicial Member, Technical Member (Centre) and Technical Member (State) shall be appointed or re-appointed by the Government on the recommendations of a Search-cum-Selection Committee constituted under sub-section (4):

Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the Judicial

2 Clause (iii) inserted by CGST (Second Amendment) Act, 2023.

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Member or, in his absence, the senior-most Technical Member of the Principal Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the Judicial Member or, in his absence, the senior-most Technical Member of the Principal Bench, shall discharge the functions of the President until the date on which the President resumes his duties.

- (3) While making selection for Technical Member (State) of a State Bench, first preference shall be given to officers who have worked in the State Government of the State to which the jurisdiction of the Bench extends.
- (4) (a) The Search-cum-Selection Committee for Technical Member (State) of a State Bench shall consist of the following members, namely:
 - (i) the Chief Justice of the High Court in whose jurisdiction the State Bench is located, to be the Chairperson of the Committee;
 - (ii) the senior-most Judicial Member in the State, and where no Judicial Member is available, a retired Judge of the High Court in whose jurisdiction the State Bench is located, as may be nominated by the Chief Justice of such High Court;
 - (iii) Chief Secretary of the State in which the State Bench is located;
 - (iv) one Additional Chief Secretary or Principal Secretary or Secretary of the State in which the State Bench is located, as may be the nominated by such State Government, not in-charge of the Department responsible for administration of State tax; and
 - (v) Additional Chief Secretary or Principal Secretary or Secretary of the Department responsible for administration of State tax, of the State in which the State Bench is located ²Member Secretary; and
- (b) the Search-cum-Selection Committee for all other cases shall consist of the following members, namely:-
 - (i) the Chief Justice of India or a Judge of Supreme Court nominated by him, to be the Chairperson of the Committee;
 - (ii) Secretary of the Central Government nominated by the Cabinet Secretary-Member;
 - (iii) Chief Secretary of a State to be nominated by the Council-Member;
 - (iv) one Member, who-

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- (A) in case of appointment of a President of a Tribunal, shall be the outgoing President of the Tribunal; or
 - (B) in case of appointment of a Member of a Tribunal, shall be the sitting President of the Tribunal; or
 - (C) in case of the President of the Tribunal seeking reappointment or where the outgoing President is unavailable or the removal of the President is being considered, shall be a retired Judge of the Supreme Court or a retired Chief Justice of a High Court nominated by the Chief Justice of India; and
- (v) Secretary of the Department of Revenue in the Ministry of Finance of the Central Government-Member Secretary.
- (5) The Chairperson shall have the casting vote and the Member Secretary shall not have a vote.
 - (6) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the Committee shall recommend a panel of two names for appointment or reappointment to the post of the President or a Member, as the case may be.
 - (7) No appointment or re-appointment of the Members of the Appellate Tribunal shall be invalid merely by reason of any vacancy or defect in the constitution of the Search-cumSelection Committee.
 - (8) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the salary of the President and the Members of the Appellate Tribunal shall be such as may be prescribed and their allowances and other terms and conditions of service shall be the same as applicable to Central Government officers carrying the same pay:
Provided that neither the salary and allowances nor other terms and conditions of service of the President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment:
Provided further that, if the President or Member takes a house on rent, he may be reimbursed a house rent higher than the house rent allowance as are admissible to a Central Government officer holding the post carrying the same pay, subject to such limitations and conditions as may be prescribed.
 - (9) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the President of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of sixty-seven

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years, whichever is earlier and shall be eligible for reappointment for a period not exceeding two years.

- (10) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the Judicial Member, Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years.

- (11) The President or any Member may, by notice in writing under his hand addressed to the Government, resign from his office:

Provided that the President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

- (12) The Government may, on the recommendations of the Search-cum-Selection Committee, remove from the office President or a Member, who-

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such President or Member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President or Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.

- (13) The Government, on the recommendations of the Search-cum-Selection Committee, may suspend from office, the President or a Judicial or Technical Member in respect of whom proceedings for removal have been initiated under sub-section (12).

- (14) Subject to the provisions of article 220 of the Constitution, the President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the Principal Bench or the State Bench in which he was the President or, as the case may be, a Member.]
