

2017
IN THE HIGH COURT AT CALCUTTA
APPELLATE SIDE

No. 4818 – A

Dated, Calcutta, the 13th September, 2017

**From : Subhasis Dasgupta,
Registrar (Judicial Service),
High Court, Appellate Side,
Calcutta.**

To :

- 1) The District Judge of all Districts
including Andaman & Nicobar Islands**
- 2) The Chief Judge, City Civil Court, Calcutta**
- 3) The Chief Judge, City Sessions Court, Calcutta**
- 4) The Chief Judge, Presidency Small Causes Court, Calcutta**
- 5) The Secretary, Judicial Department, Govt. of West Bengal**
- 6) Director, West Bengal Judicial Academy**

**Sub. : Filling up of the post of Presiding Officer in CGIT-cum-Labour
Court/National Industrial Tribunal, Mumbai-I under Ministry of
Labour & Employment, Government of India.**

Sir,

With reference to the subject captioned above, I am directed to inform that a letter being No.A-12030/03/2017-CLS-II dated 05.09.2017, alongwith its enclosures as received from the Ministry of Labour & Employment, Government of India, inviting willingness for filling up of the post of Presiding Officer in Central Government Industrial Tribunal (CGIT)-cum-Labour Court/National Industrial Tribunal, Mumbai-I, has been **uploaded** in the website of the Hon'ble Court (www.calcuttahighcourt.nic.in) for information of the officers of West Bengal Judicial Service, fulfilling the eligibility criteria as mentioned therein.

As such, I am to request you to inform the eligible judicial officers to visit the said website and download the content and if willing to forward their filled in application (in prescribed proforma) alongwith requisites, as sought for, to reach the Hon'ble Court **on or before 19.09.2017** for further necessary action in the matter at this end.

Yours faithfully,

Sd/-

Registrar (Judicial Service)

No. A-12030/03/2017-CLS-II
Government of India
Ministry of Labour & Employment

Shram Shakti Bhawan, Rafi Marg,
New Delhi – 110001.

Dated 05.09.2017

To,

The Registrar General,
All High Courts.

Sub: Filling up the post of Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court/National Industrial Tribunal, Mumbai-I.

Sir,

I am directed to say that the post of Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court (CGIT-cum-LC)/National Industrial Tribunal (NIT) at Mumbai-I is to be filled up shortly in accordance with the provisions contained in Sections 7 & 7B of the Industrial Disputes Act, 1947 (relevant extract of the Act placed at **Annexure-I**). According to these provisions, the post can be held by a judicial officer who is, or has been, a Judge of a High Court. A serving Judge can be appointed on transfer on deputation basis for a fixed term. A retired Judge can be appointed on re-employment basis. The terms and conditions of appointment of a Judge to the post of Presiding Officer will be as per **Annexure-II** [The Presiding Officers of the Labour Court, Industrial Tribunal and National Tribunal (Salaries, Allowances and other Terms and Conditions of Service) Rules, 2015].

2. The pay attached to the post of Presiding Officer of CGIT-cum-LC/NIT, Mumbai-I is Rs.80,000/- (fixed) per month.

3. It is requested that a panel of names of judicial officers who are willing to be appointed as Presiding Officer of CGIT-cum-LC/NIT, Mumbai-I and who fulfill the eligibility conditions may please be furnished so as to reach this Ministry within a period of one month from the date of issue of this letter i.e. by 04.10.2017 for selection of a suitable officer. The Bio-Data of each officer may be furnished in the proforma placed at **Annexure-III** to be filled by the concerned officer and to be attested by the concerned Registrar General.

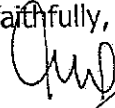
4. It is requested that a panel of names of judicial officers who fulfill the requirements, as mentioned above and are willing to take up the assignment on terms and conditions mentioned in the enclosed rules (Annexure-II) may please be furnished to this Ministry along with Annexure-III.

5. It is urged that filling of details of each of the officers in each of the proformas and the last date of sending of applications may strictly be adhered to. It is informed that **only the nominations with complete proformas (Annexure-III) received on/before 04.10.2017 will be considered by the Ministry.** The matter may kindly be treated as urgent.

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6. It is further requested that this Circular may be given wide publicity including the Notice Board of the Court so that there is sufficiently large number of candidates applying for the post.

Yours faithfully,



(S. K. Singh) 05.9.17

Under Secretary to the Government of India
Tel. No. 011-23766903

Copy to:

1. Ministry of Law and Justice, Department of Legal Affairs, Shastri Bhawan, New Delhi with the request that a panel of names of Judicial Officers (retired or serving) who are willing to be appointed to the post of the Presiding Officer of the CGIT-cum-LC/NIT, Mumbai-I may kindly be forwarded to this Ministry.
2. All Deputy Chief Labour Commissioners (Central) with the request to take up the matter with the Registrars of the High Courts concerned for wide publicity of the circular.

Encl: Annexure-I, II, III.


(S. K. Singh) 05.09.17

Under Secretary to the Government of India

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

5. Boards of Conciliation.—(1) The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.

(3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party.

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number.

Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

6. Courts of Inquiry.—(1) The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number.

Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

17. Labour Courts.—(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.

(2) A Labour Court shall consist of one person only to be appointed by the appropriate Government.

1. Subs. by Act 36 of 1956, sec. 4, for section 7 (w.e.f. 10-3-1957). Earlier section 7 was amended by Act 49 of 1951, sec. 3 (w.e.f. 26-6-1951).

(3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless—

1[(a)] he is, or has been, a Judge of a High Court; or

2[(b)] he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or

3[(c)] he has held any judicial office in India for not less than seven years;

4[(d)] he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years;]

5[(e)] he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience in the labour department including three years of experience as Conciliation Officer;

6[(f)] Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

7[(g)] he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.]

STATE AMENDMENTS

Andaman and Nicobar Islands.—In section 7, in sub-section (3), in clause (a) [now re-lettered as clause (d)], for the words "seven years", substitute the words "three years".

Goa.—In section 7, in sub-section (3), after clause (d), insert the following clauses, namely:—

(41) he has practised as an advocate or attorney for not less than seven years in a High Court or in two or more such Courts in succession, or any Court subordinate under any law for the time being in force; or

(42) he holds a degree in law of a university established by law in any part of India or an equivalent degree and is holding or has held an office not lower in rank than that of Deputy Registrar of any Industrial Court or Tribunal or Labour Court constituted under any law for the time being in force for not less than five years; or

(43) he holds a degree in law of a university established by law in any part of India or an equivalent degree and is holding or has held an office not lower in rank than that of Deputy Commissioner of Labour under a State Government or a Union territory administration for not less than five years; or

[Vide Goa Act 5 of 1987, sec. 2 (w.e.f. 21-10-1987).]

Gujarat.—In section 7, in sub-section (3), insert the words "or a Joint Judge or an Assistant Judge".

(i) in clause (b), after the words "seven years", substitute the words "five years";

(ii) in clause (c), for the words "five years", substitute the words "three years" and at the end of the clause, insert the word "or";

(iv) after clause (e), insert the following clause, namely:—

(f) he has practised as an advocate or attorney for not less than seven years in a High Court or any Court subordinate there to or in any Industrial Court or Industrial Tribunal or Labour Court constituted under any law for the time being in force."

1. Ins. by Act 36 of 1964, sec. 3 (w.e.f. 15-12-1964).
2. Clause (c) omitted by Act 46 of 1982, sec. 3 (w.e.f. 21-8-1984).
3. Clauses (a) and (b) relettered as clauses (d) and (e) respectively by Act 36 of 1964, sec. 3 (w.e.f. 15-12-1964).
4. Ins. by Act 24 of 2010, sec. 4 (w.e.f. 15-9-2010).

[Vide Gujarat Act 28 of 1977, sec. 2.]

Haryana.—In section 7, in sub-section (3),—

(i) for clause (b), substitute the following clause, namely:—

(b) he is qualified for appointment as, is or has been, a District Judge or an Additional District Judge; or and

(ii) after clause (c), insert the following clause, namely:—

(cc) he has been a Commissioner of a division or an Administrative Secretary to Government or an officer of the Labour Department not below the rank of a Joint Labour Commissioner for a period of not less than two years; or

[Vide Haryana Act 39 of 1976, sec. 2 (w.e.f. 12-8-1976).]

Madhya Pradesh.—In section 7, after sub-section (1), insert the following sub-section, namely:—

(1A) In addition to the functions specified in sub-section (1), the Labour Court shall try offences punishable under this Act and the Acts specified in Part B of the Second Schedule.

[Vide Madhya Pradesh Act 43 of 1981, sec. 3 (w.e.f. 26-1-1982).]

In section 7, sub-section (1A), as inserted by Madhya Pradesh Act 43 of 1981, sec. 3 (quoted above), has been omitted.

[Vide Madhya Pradesh Labour Laws (Amendment) and Miscellaneous Provisions Act, 2003 (28 of 2003).]

Maharashtra.—In section 7, in sub-section (3), after clause (d), insert the following clauses, namely:—

(41) he has practised as an advocate or attorney for not less than seven years in the High Court, or any court subordinate thereto, or any Industrial Court or Tribunal or Labour Court, constituted under any law for the time being in force; or

(42) he holds a degree in law of a university established by law in any part of India or is holding or has held an office not lower in rank than of Deputy Registrar of any such Industrial Court or Tribunal for not less than five years; or

[Vide Maharashtra Act 56 of 1974, sec. 2.]

After clause (42), insert the following clause, namely:—

(43) he holds a degree in law of a university established by law in any part of India and is holding or has held an office not lower than that of Assistant Commissioner of Labour under the State Government for not less than five years; or

[Vide Maharashtra Act 22 of 1976, sec. 2 (w.e.f. 27-5-1976).]

Punjab, Haryana, Chandigarh.—In section 7, in sub-section (3), insert the following clauses, namely:—

(c) he is or has been a District Judge; or

(d) he has held the office of the Chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950, or of any Tribunal for a period not less than two years.

[Vide Punjab Act 8 of 1957, sec. 2 (w.e.f. 3-8-1957); Punjab Act 31 of 1966 (w.e.f. 1-11-1966).]

The above said amendments were made prior to the amendments made by the Central Act 46 of 1982, sec. 3 (w.e.f. 21-8-1984).

Uttar Pradesh.—In section 7, after sub-section (3), insert the following sub-section, namely:—

(3A) In relation to industrial dispute other than that referred to in sub-clause (i) of clause (a) of section 2, or in section 4 of the Industrial Disputes (3) shall have effect as if—

(a) after clause (c) the following new clauses (d) and (e) had been added:—

(d) is or has been a Magistrate of the first class for a period exceeding two years;

(e) is a person possessing more than two years' practical experience of adjudicating or settling industrial disputes;

(b) in the proviso after the words "clause (b)", the words "or clause (d) or clause (e)" had been added.

[Vide Uttar Pradesh Act 25 of 1951, sec. 2 (w.e.f. 26-6-1951).]

West Bengal.—The above said amendments were made prior to the amendments made by the Central Act 36 of 1964, sec. 3 (w.e.f. 15-12-1964) and Act 46 of 1982, sec. 3 (w.e.f. 21-8-1984).

West Bengal.—In section 7, in sub-section (3), for "clause (b)", substitute the following clause, namely:—

(b) he is or has been, a District Judge or an Additional District Judge; or

[Vide West Bengal Act 35 of 1989, sec. 3 (w.e.f. 22-1-1989).]

COMMENTS

Right of Labour Court

The Labour Court/Tribunal has an inherent right in the interest of justice to seek proper assistance and grant leave to a party before it is represented by a legal practitioner. *TK Virghese v. Nishin Corporation*, (2002) 11 LJ (Supp) Bom 1018.

17A-Tribunals.—(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule, [and for performing such other functions as may be assigned to them under this Act].

(2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless—

(a) he is, or has been, a Judge of a High Court or

(aa) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; [***];

(b) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience in the labour department including three years' of experience as Conciliation Officer;

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed, unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(c) he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.]

(4) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.]

STATE AMENDMENTS

Assam.—In section 7A, in sub-section (3), after clause (a) insert the following clause, namely—

(aa) he has worked as a District Judge or as an Additional District Judge or as both for a total period of not less than three years or is qualified for appointment as a Judge of a High Court;

Provided that the appointment to a Tribunal of any person qualified under this clause shall not be made without consultation with the Assam High Court; or

Bihar.—In section 7A, in sub-section (3), after clause (a) insert the following clause, namely—

(aa) he has worked as a District Judge or as an Additional District Judge or as both for a total period of not less than three years;

Provided that the appointment to a Tribunal of any person qualified under this clause shall be made in consultation with the High Court of the State in which the Tribunal has or is intended to have, its usual place of sitting; or

[*Vide* Bihar Act 20 of 1959, sec. 2 (w.e.f. 7-7-1959).]

1. Ins. by Act 36 of 1956, sec. 4 (w.e.f. 10-3-1957).

2. Ins. by Act 46 of 1982, sec. 4(a) (w.e.f. 21-8-1984).

3. Ins. by Act 36 of 1964, sec. 4 (w.e.f. 15-12-1964).

4. The word "or" omitted by Act 46 of 1982, sec. 4 (w.e.f. 21-8-1984).

5. Ins. by Act 24 of 2010, sec. 5 (w.e.f. 15-9-2010). Earlier clause (b) was omitted by Act 46 of 1982, sec. 4 (w.e.f. 21-8-1984).

6. Ins. by Act 24 of 2010, sec. 5 (w.e.f. 15-9-2010).

Gua.—In section 7A, in sub-section (3), for clause (a), substitute the following clauses, namely—

(b) he is, or has been, a District Judge; or

(c) he has, for a period of not less than three years, been an Additional District Judge or an Assistant Judge; or

(d) he is qualified for appointment as a Judge of the High Court".

[*Vide* Goa Act 5 of 1987, sec. 3 (w.e.f. 21-10-1987).]

Gujarat.—In section 7A, in sub-section (3)—

(i) in clause (aa), after the words "an Additional District Judge", insert the words "or a Joint Judge or an Assistant Judge";

(ii) in clause (b) [Ed. clause (b) has been omitted by Central Act 46 of 1982, sec. 4 (w.e.f. 21-8-1984)], insert the word "or" at the end;

(iii) after clause (b), insert the following clause, namely—

(c) he has for not less than five years been the presiding officer of a Labour Court constituted under any law for the time being in force".

[*Vide* Gujarat Act 28 of 1977, sec. 3.]

In section 7A, in sub-section (3), after clause (c), insert, the following clause, namely—

(d) he holds a degree in law of a University established by law in any part of India and is holding or has held an office not lower in rank than that of Assistant Commissioner of Labour under the State Government for not less than ten years.

[*Vide* Gujarat Act 22 of 1981, sec. 5 (w.e.f. 1-8-1981).]

Ed. The above said amendments were made prior to the amendments made by the Central Act 46 of 1982, sec. 4 (w.e.f. 21-8-1984).

Haryana.—In section 7A, in sub-section (3),—

(i) for clause (aa), substitute the following clause, namely—

(aa) he is qualified for appointment as, is or has been, a District Judge or an Additional District Judge; or", and

(ii) after clause (aa), insert the following clause, namely—

(aaa) he has been a Commissioner of a division or an Administrative Secretary to Government or an officer of the Labour Department not below the rank of a Joint Labour Commissioner for a period of not less than two years; or"

[*Vide* Haryana Act 39 of 1976, sec. 3 (w.e.f. 12-8-1976).]

Kerala.—In section 7A, in sub-section (3), substitute the following clause, namely—

(3) A person shall not be qualified for appointment as the Presiding Officer of a Tribunal unless—

(a) he is, or has been, a Judge of a High Court; or

(b) he is eligible for being appointed a Judge of a High Court; or

(c) he has worked as President of the Board of Revenue; or

(d) he has worked as a member of the Board of Revenue for a period of not less than three years; or

(e) he has worked as Commissioner of Labour for a period of not less than three years; or

(1) he has worked as a member of the Industrial Court constituted under section 9 of the Madhya Pradesh Industrial Relations Act, 1960 (27 of 1960), for a period of not less than five years."

[Vide Madhya Pradesh Act 19 of 1968, sec. 3 (w.e.f. 15-1-1969).]
 Maharashtra.—In section 7A, in sub-section (3), after the words "Judge of a High Court", insert the words "or a District Judge or a person qualified for appointment as a Judge of a High Court".

[Vide Maharashtra Act 2 of 1963, sec. 2 (w.e.f. 4-1-1963).]

In section 7A, in sub-section (3), in clause (aa), for the words "an Additional District Judge", substitute the words "an Additional District Judge or an Assistant Judge or"

After clause (b), (Ed. Clause (b) has been omitted by Central Act 46 of 1982, sec. 4 (w.e.f. 21-8-1984), insert the following clause, namely:—

"(c) he has for not less than five years been a presiding officer of a Labour Court, constituted under any law for the time being in force."

[Vide Maharashtra Act 56 of 1974, sec. 3.]

After clause (c) insert the following clause, namely:—

"(d) he holds degree in law of a University established by law in any part of India and is holding or has held an office not lower in rank than that of Assistant Commissioner of Labour under the State Government for not less than ten years."

[Vide Maharashtra Act 22 of 1976, sec. 3.]

Mysore (Karnataka).—(1) In section 7A, in sub-section (3), after clause (a), insert the following clause, namely:—

"(aa) he is, or has been, a District Judge, or"

[Vide Mysore Act 6 of 1963, sec. 2 (w.e.f. 31-1-1963).]

(2) In clause (aa) as inserted by Mysore Act 6 of 1963, after the words "District Judge", insert the words "for a period of not less than three years."

[Vide Mysore Act 25 of 1963, sec. 2 (w.e.f. 12-12-1963).]

Ed. The above said amendments were made prior to the amendments made by Central Act 46 of 1982, sec. 4 (w.e.f. 21-8-1984).

Orissa.—In section 7A, in sub-section (3), after clause (a), insert the following clause, namely:—

"(aa) he has been a member of the Orissa Superior Judicial Service for a period of not less than seven years."

[Vide Orissa Act 6 of 1960, sec. 2 (w.e.f. 17-3-1960).]

West Bengal.—In section 7A, in sub-section (3), in clause (a), after the words "High Court", insert the words "or a District Judge or an Additional District Judge".

[Vide West Bengal Act 17 of 1958, sec. 3 (w.e.f. 22-9-1958).]

In section 7A, in sub-section (3), for clause (aa), substitute the following clause, namely:—

"(aa) he is, or has been, a District Judge or an Additional District Judge, or"

[Vide West Bengal Act 35 of 1989, sec. 4.]

COMMENTS

Power to constitute Industrial Court/Tribunal

Section 7A empowers the appropriate Government to constitute one or more Industrial Tribunals for adjudication of the disputes relating to any matter specified in the Schedules. The Second Schedule enumerates the matters which fall within the jurisdiction of the Labour Court. The Third Schedule enumerates the matters which fall within the jurisdiction of the Industrial Tribunal. *Jagdish Narain Sharma v. Rajasthan Parika Ltd.*, 1994 LLR 265 (Raj).

17B. National Tribunals.—(1) The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

(2) A National Tribunal shall consist of one person only to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal [unless he is, or has been, a Judge of a High Court].

(4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.]

17C. Disqualifications for the presiding officers of Labour Courts, Tribunals and National Tribunals.—No person shall be appointed to, or continue in, the office of the presiding officer of a Labour Court, Tribunal or National Tribunal, if—

(a) he is not an independent person; or

(b) he has attained the age of sixty-five years.]

STATE AMENDMENTS

Assam.—In section 7C, in clause (b), insert the following proviso, namely:—

"Provided that where such presiding officer of a Tribunal appointed by the State Government attains the age of sixty-five years before the completion of any proceedings pending before him, the State Government may, if in the opinion of such Government public interest so requires, order his continuance in office for a period not exceeding six months for completion of the proceedings."

[Vide Assam Act 3 of 1962, sec. 3 (w.e.f. 30-4-1962).]

Punjab, Haryana, Chandigarh.—In section 7C, for clause (b), substitute the following clause, namely:—

"(b) he has attained the age of sixty-seven years"

[Vide Punjab Act 8 of 1957, sec. 3 (w.e.f. 3-6-1957), and the Central Act 31 of 1966.]

West Bengal.—In section 7C, in clause (b), insert the following proviso, namely:—

"Provided that where such presiding officer of a Tribunal appointed by the State Government attains the age of sixty-five years before completion of any proceedings pending before him, the State Government may, if in the opinion of such Government public interest so requires, order his continuance in office for a period not exceeding six months for completion of the proceedings."

[Vide West Bengal Act 11 of 1959, sec. 3 (w.e.f. 27-10-1959).]

SECTION 7D

Gujarat.—After section 7C, insert the following section, namely:—

"7D. Certain District Judges qualified for appointments on Tribunal constituted by State Government.—Notwithstanding anything contained in sub-section (1) of section 7A,—

(1) The State Government may constitute an Industrial Tribunal under that sub-section for performing such other functions as may be assigned to it under this Act.

(2) Where the State Government constitutes a Tribunal under section 7A, the Tribunal may consist of a person who is, or has been, for a period of not less than

1. Ins. by Act 56 of 1956, sec. 4 (w.e.f. 10-3-1957).

2. Subs. by Act 46 of 1982, sec. 5, for certain words (w.e.f. 21-8-1984).

5 years, a District Judge or an Additional or Joint District Judge and notwithstanding anything contained in sub-section (3) of section 7A but subject to section 7C, such person shall be deemed to be qualified for appointment as the presiding officer of the Tribunal.

(3) The appointment of a person qualified under clause (2) shall be made after consultation with the High Court."

[*Vide* Gujarat Act 22 of 1962, sec. 2 (w.e.f. 9-8-1962).]

18. Filling of vacancies.—If, for any reason a vacancy (other than a temporary absence) occurs in the office of the presiding officer of a Labour Court, Tribunal or National Tribunal or in the office of the Chairman or any other member of a Board or Court, then, in the case of a National Tribunal, the Central Government and in any other case, the appropriate Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceeding may be continued before the Labour Court, Tribunal, National Tribunal, Board or Court, as the case may be, from the stage at which the vacancy is filled.]

19. Finality of orders constituting Boards, etc.—(1) No order of the appropriate Government or of the Central Government appointing any person as the Chairman or any other member of a Board or Court or as the presiding officer of a Labour Court, Tribunal or National Tribunal shall be called in question in any manner, and no act or proceeding before any Board or Court shall be called in question in any manner on the ground merely of the existence of any vacancy in, or defect in the constitution of, such Board or Court.

(2) No settlement arrived at in the course of a conciliation proceeding shall be invalid by reason only of the fact that such settlement was arrived at after the expiry of the period referred to in sub-section (6) of section 12 or sub-section (5) of section 13, as the case may be.

(3) Where the report of any settlement arrived at in the course of conciliation proceeding before a Board is signed by the Chairman and all the other members of the Board, no such settlement shall be invalid by reason only of the casual or unforeseen absence of any of the members (including the Chairman) of the Board during any stage of the proceeding.]

CHAPTER IIA

NOTICE OF CHANGE

9A. Notice of change.—No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,—

(a) without giving to the workman likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice;

Provided that no notice shall be required for effecting any such change—

1. Subs. by Act 36 of 1956, sec. 5, for section 8 (w.e.f. 10-3-1957). Earlier section 8 was substituted by Act 40 of 1951, sec. 4 (w.e.f. 26-5-1951).
2. Subs. by Act 36 of 1956, sec. 5, for section 9 (w.e.f. 10-3-1957). Earlier section 9 was amended by Act 40 of 1951, sec. 5 (w.e.f. 26-5-1951).
3. Chapter IIA (containing sections 9A and 9B) ins. by Act 36 of 1956, sec. 6 (w.e.f. 10-3-1957).