Nominations called for the post of Judicial Member, Appellate Tribunal for Electricity

The Appellate Tribunal for Electricity (ATE) has been set up at New Delhi by the Government of India under the provisions of the Electricity Act, 2003. The Tribunal consists of a Chairperson and three other Members. Appointment to the posts of Chairperson and Members is governed by the Appellate Tribunal for Electricity (Salaries, Allowances and other Conditions of Service of Chairperson and Members) Rules, 2004 (copy enclosed). It is proposed to fill up one post of Judicial Member which will be falling vacant in the year 2006.

2. As prescribed under the Act, a person to be appointed Judicial Member of the Appellate Tribunal should either be or should have been, or is qualified to be, a Judge of a High Court. The Member shall hold office for a term of three years from the date on which he assumes office or till he attains the age of sixty-five years, whichever is earlier. The prospective candidate has also to give a declaration that he/she does not have any financial or other interest which is likely to affect prejudicially his/her functioning as Member of the Appellate Tribunal for Electricity.

3. Relevant extracts of the Electricity Act, 2003 relating to the requirement of qualifications, experience etc. for Judicial Member, Appellate Tribunal are enclosed as Annexure. Nominations of suitable persons having prescribed qualification and experience may be forwarded to Additional Secretary, Ministry of Power, Shram Shakti Bhavan, Rafi Marg, New Delhi, by January 15, 2006.
Notification

G.S.R. 259(E).- In exercise of the powers conferred by clause (r) of sub-section (2) of section 176 of the Electricity Act, 2003 (36 of 2003), the Central Government hereby makes the following rules, namely:

1. **Short title and commencement** – (1) These rules may be called the Appellate Tribunal for Electricity (Salaries, Allowances and other Conditions of Service of Chairperson and Members) Rules, 2004.

   (2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.** – In these rules, unless the context otherwise requires, -

   (a) “Act” means the Electricity Act, 2003;

   (b) “Appellate Tribunal” means the Appellate Tribunal for Electricity established under section 110 of the Act;

   (c) “Chairperson” means the Chairperson the Appellate Tribunal appointed under section 113 of the Act;

   (d) “Member” means a Member of the Appellate Tribunal appointed under section 113 of the Act;

   (e) Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. **Salary, allowances, payable to the Chairperson.**– The Chairperson shall be entitled to a monthly salary and to such allowances and other benefits, as are admissible to a Judge of the Supreme Court:
Provided that in case a person appointed as the Chairperson is in receipt of any pension, the pay of such Chairperson shall be reduced by the gross amount of pension drawn by him:

Provided further that the Chairperson shall be entitled to draw allowances on the original basic pay before such fixation of pay.

4. **Contribution to contributory provident fund.**—The Chairperson shall be entitled to subscribe to the Contributory Provident Fund which shall be governed by the Contributory Provident Fund Rules, (India), 1962.

5. **Other conditions of service.**—The other conditions of service of Chairperson shall be governed by the Supreme Court Judges (Conditions of Service) Act, 1958 and the rules made there under.

6. **Salary and allowances payable to Member.**—A Member of the Appellate Tribunal shall be entitled to a monthly salary, and such allowances and other benefits as are admissible to a serving Judge of the High Court of Delhi:

Provided that in case a person appointed as the Member is in receipt of any pension, the pay of such Member shall be reduced by the gross amount of pension drawn by him:

Provided further that the Member shall be entitled to draw allowances on the original basic pay before such fixation of pay.

7. **Contribution to contributory provident fund.**—The Member shall be entitled to subscribe to the Contributory Provident Fund which shall be governed by the Contributory Provident Fund Rules (India), 1962.

8. **Other conditions of service of Member.**—The other conditions of service of a Member shall be governed by the High Court Judges (Salaries and conditions of Service) Act, 1954, and the rules made there under for a serving Judge of the High Court of Delhi.

9. **Oath of office and secrecy.**—Every person appointed as the Chairperson or a Member shall, before entering upon his office, make and subscribe an oath of office and secrecy, before the Minister in charge of the Ministry of Power in Form I and Form II respectively annexed to these rules.
10. **Declaration of financial or other interest.** – Every person, on his appointment as the Chairperson or Member, as the case may be, shall give a declaration in Form III annexed to these rules, to the satisfaction of the Central Government, that he does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member, as the case may be.

11. **Residuary provision.** – Matter relating to the terms and conditions of service of the Chairperson or Member with respect to which no express provision has been made in these rules, shall be referred by the Appellate Tribunal to the Central Government for its decision.

**FORM-I**

(See Rule 9)

Form of Oath of Office for the Chairperson/Members of the Appellate Tribunal for Electricity)

I, __________________________, having been appointed as the Chairperson/Member *(cross out portion not applicable)* do solemnly affirm and do swear in the name of God that I will faithfully and conscientiously discharge my duties as the Chairperson/Member *(cross out portion not applicable)*, of the Appellate Tribunal for Electricity, to the best of my ability, knowledge and judgement, without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws of the land.

Dated: __________________________

( Name of the Chairperson/Member)

APPELLATE TRIBUNAL FOR ELECTRICITY
FORM-II
(See rule 9)

Form of Oath of Secrecy for the Chairperson/Members of the Appellate Tribunal for Electricity.

I, __________________________, having been appointed as the Chairperson/a Member (Cross out portion not applicable) do solemnly affirm and swear in the name of God that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as the Chairperson/a Member (cross out portion not applicable) of the Appellate Tribunal for Electricity except as may be required for the due discharge of my duties as the Chairperson/a Member (cross out portion not applicable).

Dated            (Name of the Chairperson/Member)

APPELLATE TRIBUNAL FOR ELECTRICITY

FORM-III
(See rule 10)

Declaration against acquisition of any adverse financial or other interest

I, __________________________, having been appointed as the Chairperson/Member (cross out portion not applicable) of the Appellate Tribunal for Electricity, do solemnly affirm and declare that I do not have, nor shall have in future any financial or other interest which is likely to affect prejudicially my functioning as the Chairperson/Member (cross out portion not applicable) of the Appellate Tribunal for Electricity.

Dated            (Name of the Chairperson/Member)

APPELLATE TRIBUNAL FOR ELECTRICITY

Sd/-
(Ajay Shankar)
Joint Secretary to the Government of India
[F.No.23/12/2003-R&R (Vol.III)(Pt.III)]
Annexure

Extract from the Electricity Act, 2003

Composition of Appellate Tribunal

112. (1) The Appellate Tribunal shall consist of a Chairperson and three other Members.

(2) Subject to the provisions of this Act,-

(a) the jurisdiction of the Appellate Tribunal may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Appellate Tribunal with two or more Members of the Appellate Tribunal as the Chairperson of the Appellate Tribunal may deem fit:

Provided that every Bench constituted under this clause shall include at least one Judicial Member and one Technical Member;

(c) the Benches of the Appellate Tribunal shall ordinarily sit at Delhi and such other places as the Central Government may, in consultation with the Chairperson of the Appellate Tribunal, notify;

(d) the Central Government shall notify the areas in relation to which each Bench of the Appellate Tribunal may exercise jurisdiction.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson of the Appellate Tribunal may transfer a Member of the Appellate Tribunal from one Bench to another Bench.

Explanation.- For the purposes of this Chapter,-

(i) “Judicial Member” means a Member of the Appellate Tribunal appointed as such under sub-clause (i) of clause (b) of sub-section (1) of section 113, and includes the Chairperson of the Appellate Tribunal;

(ii) “Technical Member” means a Member of the Appellate Tribunal appointed as such under sub-clause (ii) or sub-clause (iii) of clause (b) of sub-section (1) of section 113.

Qualifications for appointment of Chairperson and Member of the Appellate Tribunal.

113. (1) A person shall not be qualified for appointment as the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal unless he-

(a) in the case of the Chairperson of the Appellate Tribunal, is, or has been, a judge of the Supreme Court or the Chief Justice of a High Court; and

(b) in the case of a Member of the Appellate Tribunal,-

(i) is, or has been, or is qualified to be, a Judge of a High Court; or

(ii) is, or has been, a Secretary for at least one year in the Ministry or Department of the Central
Government dealing with economic affairs or matters or infrastructure; or

(iii) is, or has been, a person of ability and standing, having adequate knowledge or experience in dealing with the matters relating to electricity generation, transmission and distribution and regulation or economics, commerce, law or management.

(2) The Chairperson of the Appellate Tribunal shall be appointed by the Central Government after consultation with the Chief Justice of India.

(3) The Members of the Appellate Tribunal shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 78.

(4) Before appointing any person for appointment as Chairperson or other Member of the Appellate Tribunal, the Central Government shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member.

Term of office.

114. The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall hold office as such for a term of three years from the date on which he enters upon his office:

Provided that such Chairperson or other Member shall be eligible for reappointment for a second term of three years:

Provided further that no Chairperson of the Appellate Tribunal or Member of the Appellate Tribunal shall hold office as such after he has attained:

(a) in the case of the Chairperson of the Appellate Tribunal, the age of seventy years;

(b) in the case of a Member of the Appellate Tribunal, the age of sixty-five years.

Terms and conditions of service.

115. The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson of the Appellate Tribunal and Members of the Appellate Tribunal shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall be varied to his
disadvantage after appointment.

78(8) Before recommending any person for appointment as Member of the Appellate Tribunal or the Chairperson or other Member of the Central Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as the Chairperson or Member.