

Tribunals in India - UPSC Polity Notes

Latest Update about Tribunals in India: On 13th February 2021, the Finance Minister has introduced a bill in the Lok Sabha, named 'The Tribunals Reforms (Rationalisation and Conditions of Service) Bill, 2021.' The bill seeks to amend the Finance Act of 2017. Through the said bill, the government seeks to dissolve the following appellate bodies and tribunals:

1. The Airport Appellate Tribunal
2. Appellate Board established under the Trade Marks Act, 1999
3. The Authority of Advance Ruling established under the Income Tax Act, 1961
4. The Film Certification Appellate Authority established under the Cinematograph Act, 1952

Tribunals can be defined as judgement seats or courts of justice or board or committee formed to adjudicate on claims of a particular kind.

Tribunals Reforms Bill 2021

The government, through the Tribunals Reforms Bill 2021, is seeking to dissolve some existing tribunals and transfer their functions to the existing judicial bodies.

Through the bill, the government seeks to amend the Finance Act 2017 to include provisions related to the composition of search-cum-selection committees and the term of office of members for 19 tribunals (such as Customs, Excise, and Service Tax Appellate Tribunal) in the Act itself.

The list of appellate bodies that the Tribunals Reform Bill 2021 is mentioned below along with the list of the proposed entities to which the functions of the discussed tribunals will be transferred:

Act	Appellate Body	Proposed Entity
The Cinematograph Act, 1952	Appellate Tribunal	High Court
The Trade Marks Act, 1999	Appellate Board	High Court
The Copyright Act, 1957	Appellate Board	Commercial Court or the Commercial Division of a High Court
The Customs Act, 1962	Authority for Advance Rulings	High Court
The Patents Act, 1970	Appellate Board	High Court

The Airports Authority of India Act, 1994	Airport Appellate Tribunal	<ul style="list-style-type: none"> Central Government – For disputes arising from the disposal of properties left on airport premises by unauthorised occupants High Court – For appeals against orders of an eviction officer
The Control of National Highways (Land and Traffic) Act, 2002	Airport Appellate Tribunal	Civil Court
The Geographical Indications of Goods (Registration and Protection) Act, 1999	Appellate Board	High Court

Provisions Proposed in the Tribunals Reform Bill 2021:

- What is search-cum-selection committee?**

The committee that is responsible to recommend the names of the chairpersons and the members for the appointment by the central government in the Tribunal is called the search-cum-selection committee. The composition of the committee as mentioned in the Tribunals Bill 2021 is:

- Chairperson – The Chief Justice of India, or a Supreme Court Judge nominated by him. He/She has the casting vote
- Two secretaries – Central Government nominates them
- The sitting or outgoing Chairperson, or a retired Supreme Court Judge, or a retired Chief Justice of a High Court
- The Secretary of the Ministry under which the Tribunal is constituted. He/She has no voting right.

- Term of Office for the Tribunals Members**

The Tribunals Reform Bill states the following term of office:

- Chairperson – 4 years or till he attains the age of 70 years [Whichever is earlier]
- Remaining Members- 4 years or till they attain the age of 67 years [Whichever is earlier]

- National Consumer Disputes Redressal Commission (NCDRC)**

The bill seeks to include the NCDRC within the purview of the Finance Act 2017. The NCDRC has been set up under the Consumer Protection Act, 2019.

- Removal of the tribunals** as mentioned at the top of the article.

Tribunals Introduction

Tribunals are not originally a part of the Constitution of India. They were introduced in 1985.

- Tribunals were constituted with the objective of delivering speedy, inexpensive and decentralised adjudication of disputes in various matters.

2. Tribunals are created to avoid the regular courts' route for dispensation of disputes.
3. Some tribunals are specialised government agencies like boards and they also have decision-making powers conferred upon them by law.
4. The provision for tribunals was not present in the Constitution originally.
 - The 42nd Amendment Act introduced these provisions in accordance with the recommendations of the **Swaran Singh Committee**.
 - The Amendment introduced **Part XIV-A** to the Constitution.
 - This Part is called 'Tribunals'. It contains two articles.
 - **Article 323A: Administrative Tribunals.** Administrative tribunals are quasi-judicial institutions that resolve disputes related to the recruitment and service conditions of persons engaged in public service. Article 323A provides for this and the Central Administrative Tribunal was created under this Section.
 - **Article 323B:** Tribunals for other subjects such as:
 - Taxation
 - Industrial and labour
 - Foreign exchange, import and export
 - Land reforms
 - Food
 - The ceiling on urban property
 - Elections to Parliament and state legislatures
 - Rent and tenancy rights
 - While 323A deals with administrative tribunals, 323B deals with other types of tribunals (like National Green Tribunal, Competition Appellate Tribunal (COMPAT), Securities Appellate Tribunal (SAT), etc.
 - Tribunals under 323A can be established only by the Parliament. However, tribunals under 323B can be established by both the Parliament and the State Legislature.
 - Under 323A, there can be only one tribunal at the centre and one for each state (or two or more states), but under 323B, there can be a hierarchy of tribunals.

Administrative Tribunals

The characteristics of administrative tribunals are mentioned below.

1. They are of statutory origin, and so must be created by a statute by Parliament/Legislatures.
2. They are quasi-judicial in nature, which means, they have some, not all the features of a court.
3. They function on the principles of natural justice and are not bound by the Civil Procedure Code.
4. They have the power to summon witnesses, administer oaths and compel the submission of documents, etc. like other courts.
5. The writs of prohibition and certiorari are available against decisions of such tribunals.
6. They are independent bodies and are not subject to administrative interference.

Administrative Tribunals Advantages

1. Tribunals offer flexibility when compared to ordinary courts that have to adhere to strict procedures.
2. They are cheaper and offer speedy justice.

3. The procedure followed by the tribunals is simple and easy to understand even for the layman.
4. They also offer relief to the ordinary courts that are already over-burdened with suits.

Administrative Tribunals Disadvantages

1. They go against the spirit of the “Rule of Law”.
 - Rule of Law ensures that arbitrary power is not exercised by institutions or individuals.
 - It is the principle that everybody is subject to and accountable to the law (which is fair).
2. Ordinary courts have a uniform code of procedure for civil and criminal cases. But, administrative tribunals have no uniform code of procedure.
3. Such tribunals are sometimes handled by subject matter experts who have no experience in dealing with judicial proceedings. Hence, they end up adopting summary procedures as well.

Challenges of Administrative Tribunals

Although tribunals were constituted to deliver speedy and quick justice to people, there are some challenges in their functioning.

- There is a lack of autonomy in the appointment and funding of tribunals.
- In the Chandra Kumar case (1997), the Supreme Court had held that appeals against the orders of a tribunal could be made in the High Court. This defeats the purpose of reducing the burden of the normal courts.
- Currently, there is a lack of infrastructure for the tribunals to function efficiently.
- Generally, the government appoints retired judges as chairpersons to tribunals. Because of this, current judges could show favouritism towards certain things so that they may be appointed post-retirement.
- The autonomy of the tribunals should be maintained and there is a need for structural and functional reforms of tribunals so that they are removed from the influence of the executive.
- There should be some form of judicial control over tribunals so that the Rule of Law is maintained.

Other Tribunals

A few examples of other tribunals are briefly described below.

Armed Forces Tribunal

- This is a military tribunal established under the Armed Forces Tribunal Act, 2007.
- It settles disputes with respect to the commission, emoluments, appointments and service conditions of personnel in the armed forces.
- Its Principal Bench is in New Delhi. It also has ten Regional Benches.

National Green Tribunal

- It was formed in 2010 for effective and expeditious disposal of cases that are related to the protection and conservation of the environment, forests and other natural resources.

Water Disputes Tribunal

- These are constituted for the purpose of settling disputes between Indian states on the question of water-sharing between rivers that flow through multiple states.

Income Tax Appellate Tribunal (ITAT)

- Established in 1941, the ITAT deals with appeals under the direct taxes acts.
- The orders passed by this tribunal are final and an appeal lies to the High Court only if a substantial question of law arises for determination.
- Currently, the tribunal has 63 Benches.

Tribunal vs Court

Both tribunals and courts deal with settling disputes between parties that affect the subjects' rights. Tribunals are like courts in many respects but there are differences between the two. The following table summarises the difference between tribunals and courts.

Sl. No.	Court of Law	Tribunal
1	It is a part of the traditional judicial system wherein the powers are derived from the State.	It is an agency created by Statute and invested with judicial powers.
2	Civil courts have the power to try all civil suits unless there is an express or implied bar.	It has the power to try cases that are of the type that the Statute confers upon them. They are formed for adjudicating cases of a particular kind.
3	Judges of the courts are independent of the executive.	Tenure, terms and conditions of the services of the members of tribunals are entirely in the hands of the executive.
4	The presiding officer here is trained in law.	The presiding officer may or may not be trained in law.
5	The judge should be impartial and not interested in the subject matter of the dispute.	Here, the tribunal may be a party to the dispute.
6	Courts of law are bound by all rules of procedure and evidence.	Tribunals are bound by the principles of natural justice and not the civil procedure codes.
7	Courts can decide vires of legislation.	Tribunals cannot decide the vires of legislation.

UPSC Questions related to Tribunals in India

How many administrative tribunals are there in India?

There are several tribunals in India. Of the Central Administrative Tribunals, there are 17 Benches.

Is a tribunal a court?

A tribunal is a quasi-judicial body. It is similar to a court but different in certain respects. The differences are mentioned in the article.

Why are tribunals important?

Tribunals are important because they deliver the machine to provide speedy and cheaper dispute settlement to aggrieved parties. They also reduce the burden on the normal courts.

