



Lawgics

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Section 110 of CGST Act, 2017

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 National Bench and the Regional Benches shall be appointed by Government after consultation with 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 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 State Bench or Area Benches shall be appointed by State Government after consultation with Chief Justice of the High Court of State or his nominee.

(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 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 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 Central Government or, as case may be, State Government resign from office:

Provided that President, State President or Member shall continue to hold office until 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
- 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 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.

Our Interpretation

Section 110
(Constitution
of GSTAT has
not been
notified yet)

This section deals with:

- appointment of the President / Members of the Appellate Tribunal,
- their qualifications,
- methodology of appointment,
- service conditions etc.

Section 110(1) deals with the qualification of a person for appointment as the President, Judicial Member, Technical Member (Centre) & Technical Member (State) of the Appellate Tribunal.

Section 110(2) deals with the appointment of the President & Judicial Member of the National Bench and the Regional Benches by the Government.

Section 110(3) deals with the appointment of the Technical Member (Centre) and Technical Member (State) of the National Bench and the Regional Benches by the Government.

Section 110(4) deals with the appointment of the Judicial Member of the State Bench or Area Benches by the State Government.

Section 110(5) deals with the appointment of Technical Member (Centre) of the State Bench or Area Benches by the Central Government and Technical Member (State) of the State Bench or Area Benches by the State Government.

Section 110(6) deals with the Validity of Appointment of the Members of the Appellate Tribunal.

Section 110(7) deals with the Disqualification of President or Members of the Appellate Tribunal.

Section 110(8) deals with the salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal.

Section 110(9) deals with Tenure of Appointment as President of the Appellate Tribunal.

Section 110(10) deals with Tenure of Appointment as Judicial Member of the Appellate Tribunal and the State President.

Section 110(11) deals with Tenure of Appointment as the Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal.

Section 110(12) deals with the resignation by the President, State President or any Member of the Appellate Tribunal.

Section 110(13) & Section 110(14) deals with the removal of the President, State President or any Member of the Appellate Tribunal.

Section 110(15) & Section 110(16) deals with the suspension of the President, State President or any Member of the Appellate Tribunal.

Section 110(17) deals with the Restriction on practise by President or Members of the Appellate Tribunal.