

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY
(Department of Information Technology)

NOTIFICATION

New Delhi, the 27th October, 2009

G.S.R. 778(E)— In exercise of the powers conferred by clause (r) of sub-section (2) of Section 87, read with section 52 of the Information Technology Act 2000 (21 of 2000), and in supersession of the Cyber Regulations Appellate Tribunal (Salary, Allowances and other terms and conditions of service of Presiding Officer) Rules, 2003, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules regulating the terms and conditions of the service of the Chairperson and Members of the Cyber Appellate Tribunal, namely:—

1. Short title and commencement.—(1) These rules may be called the Cyber Appellate Tribunal (Salary, Allowances and Other Terms and Conditions of Service of Chairperson and Members) Rules, 2009.

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

2. Definitions.— (1) In these rules, unless the context otherwise requires,—

- (a) "Act" means Information Technology Act, 2000 (21 Of 2000);
- (b) "Cyber Appellate Tribunal" means the Cyber Appellate Tribunal established under sub-section (1) of section 48 of the Act;
- (c) "Chairperson" means the Chairperson of the Cyber Appellate Tribunal appointed under section 49 of the Act;
- (d) "Member" means the Member of the Cyber Appellate Tribunal appointed under section 49 of the Act;

(2) All other words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Salary and allowances.— (1) The Chairperson and the Member shall be paid such salary and allowances, as are admissible to a Secretary to the Government of India, including all the benefits that a Secretary is entitled to:

Provided that in the case of appointment of a person as the Chairperson or the Member, as the case may be, who has retired as a Judge of the Supreme Court or a High Court or who has retired from service under the Central Government or a State Government and who is in receipt of, or has received, or has become entitled to receive any retirement benefits by way of pension, gratuity, employer's contribution to Contributory Provident Fund or other forms of retirement benefits, the pay of such Chairperson or the Member, as the case maybe, shall be reduced by the gross amount of pension or employer's contribution to the Contributory Provident Fund or any other form of retirement benefit, if any, drawn or to be drawn by him:

Provided further that in case a retired Judge of a Supreme Court or a High Court is appointed as the Chairperson or the Member, as the case maybe, the terms and conditions of service of such Chairperson or Member shall be in accordance with the instructions issued by the Ministry of Finance in respect of appointment of Judges to various Tribunals and in consultation with that Ministry.

4. Leave.— The Chairperson and the Member shall be entitled to leave as are applicable to the Secretary to the Government of India in respect of earned leave, half pay leave, extraordinary leave, commutation of leave and casual leave.

5. Leave sanctioning authority.— The Secretary, Department of Information Technology, Ministry of Communications and Information Technology, Government of India, shall be the authority competent to sanction leave to the Chairperson and the Member.

6. Pension or Provident Fund.— (1) In case a serving Judge of the Supreme Court or a High Court or a member of the Indian Legal Service is appointed to the post of the Chairperson or the Member, the service rendered in the Tribunal shall count for pension, to be drawn in accordance with the rules of the service to which he belongs, and he shall also be governed by the provisions of the General Provident Fund (Central Services) Rules, 1960.

(2) In all other cases, the Chairperson and the Member shall be governed by the provision of the Contributory Provident Fund (India) Rules, 1962.

7. Travelling and daily allowances.— The Chairperson or the Member, as the case may be, while on tour (including the journey undertaken on the expiry of his term in the Tribunal to proceed to his home town) shall be entitled to the travelling allowance, daily allowance, transportation of personal effects and other similar matters at the same rates as are applicable to the Secretary to the Government of India.

8. Leave travel concession.—The Chairperson and the Member shall be entitled to avail leave travel concession at the same rates as are admissible to the Secretary to the Government of India.

9. Facility of conveyance.— The Chairperson and the Member shall be entitled to hire a taxi on whole time basis in accordance with the rules or orders for the time being in force for hire of taxi by the Secretary to the Government of India.

10. House rent allowance.—The Chairperson and the Member shall be entitled to house rent allowance at the same rate as are, for the time being, admissible to Group 'A' officers of the Central Government drawing equivalent pay and grade pay.

11. Facilities for medical treatment.— The Chairperson and the Member shall be entitled to medical treatment and hospital facilities, as provided in the Central Government Health Scheme Rules, 1954 and in places where the Central Government Health Scheme is not in operation, the said Chairperson and the Member shall be entitled to the facilities as provided in the Central Services (Medical Attendance) Rules, 1944.

12. Oath of office and secrecy.— Every person appointed as the Chairperson or the Member, as the case may be, shall, before entering upon his office, make and subscribe an oath of office and secrecy, in Form I and Form II respectively annexed to these rules.

13. Declaration of financial or other interest.— Every person, on his appointment as the Chairperson or the 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 the Member, as the case may be.

14. Residuary provision.— Any matter relating to the conditions of service of the Chairperson and the Member with respect to which no express provision has been made in these rules shall be as per the rules applicable to the Group 'A' officers of the Central Government drawing equivalent pay and grade pay.

FORM – I
(See rule 12)

Form of Oath of Office for the Chairperson/Members of the Cyber Appellate Tribunal

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 Cyber Appellate Tribunal, to the best of my ability, knowledge and judgement, without fear of favour, affection or ill-will.

Dated:

Place:

(Name of the Chairperson/Member)
CYBER APPELLATE TRIBUNAL

FORM – II
(See rule 12)

Form of Oath of Secrecy for the Chairperson/Members of the Cyber Appellate Tribunal

I, _____, having been appointed as the Chairperson/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 Cyber Appellate Tribunal except as may be required for the due discharge of my duties as the Chairperson/ a Member (*cross out portion not applicable*).

Dated:

Place:

(Name of the Chairperson/Member)
CYBER APPELLATE TRIBUNAL

FORM – III
(See rule 13)

Declaration against acquisition of any adverse financial or other interest

I, _____, having been appointed as the Chairperson/Member (*cross out portion not applicable*) of Cyber Appellate Tribunal, 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 Cyber Appellate Tribunal.

Dated:

(Name of the Chairperson/Member)
CYBER APPELLATE TRIBUNAL