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The Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021

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Why in News

Recently, the President promulgated **Tribunal Reforms (Rationalisation and Conditions of Service) Ordinance 2021** through which the **Appellate authorities under nine laws have been replaced with High Courts.**

The Ordinance has amended the **Finance Act 2017** to include provisions related to the composition of search-cum-selection committees, and term of office of members in the Act itself.

The Finance Act 2017

It **empowered the central government** to notify rules on qualifications of members, terms and conditions of their service, and composition of search-cum-selection committees for 19 tribunals (such as Customs, Excise, and Service Tax Appellate Tribunal).

Key Points

- **Search-cum-selection committees:**
 - The Chairperson and Members of the Tribunals will be appointed by the central government on the recommendation of a **Search-cum-Selection Committee.**
 - The Committee will consist of:
 - Chief Justice of India, or a Supreme Court Judge nominated by him, as the Chairperson (with casting vote),
 - Secretaries nominated by the central government,
 - 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 (with no voting right).

- **Term of Office:**
 - The term of office for the **Chairperson** of the tribunals will be of **four years or till the attainment of the age of seventy years**, whichever is earlier.
 - For **other members** of the tribunals, the term will be of **four years or till the age of sixty-seven years**, whichever is earlier.
- **The Nine Laws (Replacement of Appellate Authorities/Tribunals):**
 - The Cinematograph Act, 1952.
 - The Trade Marks Act, 1999.
 - The Copyright Act, 1957.
 - The Customs Act, 1962.
 - The Patents Act, 1970.
 - The Airports Authority of India Act, 1994.
 - The Control of National Highways (Land and Traffic) Act, 2002.
 - The Geographical Indications of Goods (Registration and Protection) Act, 1999.
- **Reason for Replacing Tribunals:**
 - **Poor Adjudication & Delay:**

The **quality of adjudication has been underwhelming** in most cases, the **delays have been substantial** because the **government has struggled to find competent persons willing to accept positions on these tribunals**, and **litigation has actually become more expensive**, as these tribunals added another layer to it.
 - **Litigations Against Them:**

There has been **incessant litigation since 1985 by advocate bar associations** against the tribunals over serious questions of their independence from the executive.
- **Related Concern:**

The **cases with High courts could increase.**

Tribunals

- **About:**

- It is a **quasi-judicial institution** that is set up to deal with problems such as resolving administrative or tax-related disputes.
- It performs a number of functions like **adjudicating disputes, determining rights between contesting parties, making an administrative decision, reviewing an existing administrative decision** and so forth.
 - The term '**Tribunal**' is derived from the word '**Tribunes**', which means 'Magistrates of the Classical Roman Republic'.

Tribunal is referred to as the office of the 'Tribunes' i.e., a Roman official under the monarchy and the republic with the function of protecting the citizen from arbitrary action by the aristocrat magistrates.
 - A Tribunal, generally, is any person or **institution having an authority to judge, adjudicate on, or to determine claims or disputes** – whether or not it is called a tribunal in its title.

- **Constitutional Provisions:**

- Tribunals were not originally a part of the Constitution.
- The **42nd Amendment Act** 1976 introduced provision for tribunals in accordance with the recommendations of the **Swaran Singh Committee**.
- The Amendment introduced **Part XIV-A to the Constitution**, which deals with 'Tribunals' and contains two articles:
 - **Article 323A:**

It deals with **Administrative Tribunals**. These are quasi-judicial institutions that resolve disputes related to the recruitment and service conditions of persons engaged in public service.
 - **Article 323B:**

It deals with **tribunals for other subjects** such as Taxation, Industrial and labour, Foreign exchange, import and export, Land reforms, Food, Ceiling on urban property, Elections to Parliament and state legislatures, Rent and tenancy rights.

Source:TH