



Supreme Court Ruling on Tribunals

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Why in News

Recently, a five-judge Constitution Bench of **the Supreme Court (SC)**, headed by Chief Justice of India has struck down the provisions of the amendments made by the Finance Act, 2017. The amendments had altered the structure and functioning of various tribunals.

These amendments, made by the Finance Act, 2017 are sub judice in the SC **as these were passed as a Money Bill.**

Key Points

Pertinent Questions Raised by the Supreme Court

- **Changes in Tribunal Postings Through Rules**
 - The Finance Act, 2017 amendments gave the Union government the power to govern appointments and modify service terms and conditions of members of tribunals.
 - In pursuance of this, the government formulated tribunal, Appellate tribunal and other Authorities Rules, 2017.
- **Passed as Money Bill**
 - Ordinarily, the Finance Act is enacted at the beginning of every accounting year to give effect to the government's fiscal policies.
 - However, the Finance Act, 2017 apart from setting the fiscal agenda, made changes which affected powers and composition of various tribunals. For example, National Green Tribunal, Income Tax Appellate Tribunal, etc.
Apart from it, there is a merger eight tribunals, bringing down the total number of tribunals from 24 to 19.

Observations made by the Supreme Court

Regarding Tribunal

- The SC **struck down the amendments in entirety.**
- It held that changing the governance of tribunal through rules is contrary to the **doctrine of Separation of Powers** and **past judgements** of the SC.
 - **Violations of Separation of Powers**

A bill requires parliamentary approval in order to be enforced, **therefore changing appointment, removal, and reappointment of members on a tribunal through rules** lowers the threshold of parliamentary scrutiny.
 - **Past Judgment of the Supreme Court**
 - In **2014, the SC**, while examining provisions related to the National Tax Tribunal, had held that Appellate tribunals have powers and functions similar to that of High Courts.
 - Hence matters related to the appointment and reappointment of their members must be free from executive involvement.
- Therefore, the SC directed the government to **reformulate the rules.**
- The SC held until the new rules are formulated, the appointments will be as per existing laws, and not under the Finance Act, 2017.

Note: Currently, the provisions of appointment, removal, and reappointment of members on a tribunal are **specified in the parent laws** establishing these tribunals.

- On account of the merger of tribunals, the SC directed the government to undertake a **'Judicial Impact Assessment'** of all 24 tribunals and analyse the ramifications of the merger.
- The SC also highlighted the **dismal state of tribunals.** Therefore, in order to monitor the working of tribunals, the SC directed the constituting a statutory organisation called the **National Tribunal' Commission.**

Tribunals

- Tribunal is a special court to deal with specific matters or problems of a particular type. They are established by an act of Parliament.
- However, the courts are constitutional bodies, that deals with all types of cases.

Regarding Money Bill

On the issue of whether the amendments (Finance Act, 2017) **could have been passed as a money Bill**, the court referred the matter to a **larger bench of & judges for consideration.**

Money Bills

- A Bill is said to be a Money Bill if it only contains provisions related to taxation, borrowing of money by the government, expenditure from or receipt to the Consolidated Fund of India. Bills that only contain provisions that are incidental to these matters would also be regarded as Money Bills.
- A Money Bill may only be introduced in Lok Sabha, on the recommendation of the President. It must be passed in the Lok Sabha by a simple majority of all members present and voting.
- Following this, it may be sent to the Rajya Sabha for its recommendations, which Lok Sabha may reject if it chooses to. If such recommendations are not given within 14 days, it will be deemed to be passed by Parliament.

Source: TH