

**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**SPECIAL LEAVE PETITION (C) NO. 10911 OF 2021**  
**IN THE MATTER OF: -**  
State Bar Council of Madhya Pradesh ...Petitioners  
VersusUnion of India ...Respondent

**AFFIDAVIT ON BEHALF OF THE UNION OF INDIA OF INDIA**

I, Arvind Saran, aged about 45 years, S/o. Shri Amarnath Saran Shrivastav, presently working as Director, Department of Revenue and having office at Room No. 48A, North Block, New Delhi 01, do hereby solemnly affirm and state as under:-

1. The present Affidavit is being filed to apprise this Hon'ble Court as to the status of recommendations already made by the Search cum Selection Committees (SCSCs) for appointment of members to the various Tribunals. It is submitted that as on date, the Central Government has acted upon all the recommendations made by the SCSCs and appointment orders have been issued as elaborated hereinafter. For convenience, a detailed chart showing the status of vacancies in each of the Tribunals, and the number of appointments made by the Central Government is annexed herewith and marked as **Annexure-A**.
2. It is submitted that the recommendations already made by the SCSCs pertained to 6 Tribunals, i.e. the Income Tax Appellate Tribunal (ITAT), National Company Law Tribunal (NCLT), the Telecom

Disputes Settlement and Appellate Tribunal (TDSAT), the National Consumer Disputes Redressal Commission (NCDRC), the Appellate Tribunal for Electricity (APTEL), and the Armed Forces Tribunal (AFT). Earlier, on 11.05.2021, 04.09.2021 and 07.09.2021, appointments had been made to the NCDRC, the APTEL and the AFT respectively. Subsequently, on 11.09.2021, the Central Government has made appointments to the ITAT, NCLT and the TDSAT. In all, a total of **84** appointments have been made to various tribunals during the years 2020 and 2021.

3. The current position in regard to the aforementioned Tribunals in regard to which recommendations had earlier been made by the respective SCSCs is set out below:
  - (a) **National Company Law Tribunal (NCLT):** The SCSC headed by the Hon'ble Chief Justice of India, Mr. Justice N.V. Ramana, had made recommendations against 11 vacancies of Judicial Members and 10 vacancies of Technical Member. On 11.09.2021, the Central Government has appointed **8 Judicial Members** and **10 Technical Members** after obtaining the approval of the ACC.
  - (b) **Telecom Disputes and Settlement Appellate Tribunal (TDSAT):** The SCSC headed by Hon'ble Mr. Justice L. Nageswara Rao, Judge, Supreme Court of India, had made recommendations against 02 vacancies of Members. For Member-1 and Member-2, the SCSC had recommended a panel of two names. On 11.09.2021, the Central Government has appointed **1 Member** after obtaining the approval of the ACC. For the vacancy of Member-2, no appointment could be made

as both the individuals recommended by the SCSC have already been appointed elsewhere. The remaining recommendations have not been accepted by the ACC.

- (c) **Income Tax Appellate Tribunal (ITAT):** The SCSC headed by Hon'ble Mr. Justice A.M. Khanwilkar, Judge, Supreme Court of India, had on 13.09.2018 made recommendations against 16 vacancies of Judicial Members and 12 vacancies of Accountant Member. On 11.09.2021, the Central Government has appointed **6 Judicial Members** and **7 Accountant Members** after obtaining the approval of the ACC.
- (d) **National Consumer Disputes Redressal Commission (NCDRC):** The SCSC headed by Hon'ble Mr. Justice D.Y. Chandrachud, Judge, Supreme Court of India, had on 24.06.2020 made recommendations against 4 vacancies of Judicial Members and 2 vacancies of Technical Member. On 11.05.2021, the Central Government has appointed **2 Judicial Members** and **2 Technical Members** after obtaining the approval of the ACC.
- (e) **Appellate Tribunal for Electricity (APTEL):** The SCSC headed by Hon'ble Mr. Justice Ashok Bhushan, Judge, Supreme Court of India, had on 20.05.2020 made recommendations against 1 vacancy of Technical Member. On 04.09.2021, the Central Government has appointed **1 Technical Member** after obtaining the approval of the ACC. Prior to this, 1 Technical Member had been appointed on 05.02.2020.
- (f) **Armed Forces Tribunal (AFT):** The SCSC headed by

Hon'ble Mr. Justice A.M. Khanwilkar, Judge, Supreme Court of India, had on 01.09.2020 made recommendations against 8 vacancies of Judicial Members and 8 vacancies of Technical Member. On 07.09.2021, the Central Government has appointed **6 Judicial Members** after obtaining the approval of the ACC. Prior to this, 5 Administrative Members had been appointed on 02.09.2020.

4. With the aforementioned appointments made in 2021, it is submitted that no recommendations made by any of the SCSCs now remain pending with the Central Government.
5. With respect to the current vacancies in the various Tribunals, Search cum Selection Committees will have to be constituted for the purpose of making recommendations. The Central Government has already, in respect of each Tribunal, nominated two Secretaries to Government, other than the Secretary in charge of the parent Department of the Tribunal for which appointments are to be made. The nomination of Secretaries has been intimated to the concerned departments of the Central Government vide letter dated 18.01.2021. The said letter dated 18.01.2021 containing a list of the Secretaries nominated as members to the SCSC is annexed herewith and marked as **Annexure-B**.
6. The SCSCs which would now be constituted, which are headed by the Hon'ble Chief Justice of India or his nominee Judge of the Supreme Court, would have to shortlist and select eligible candidates based on the eligibility criteria to be laid down as per the Rules to be notified under the Tribunal Reforms Act, 2021. It is submitted that the Rules have been prepared by the Central Government and would be notified

shortly. Once the Rules under the Tribunal Reforms Act, 2021 are notified, the SCSCs could proceed with issuing advertisements and selecting the candidates for recommendation as members. In this manner, all existing vacancies could be filled up.



**DEPONENT**

(अरविन्द सरन)

(ARVIND SARAN)

निदेशक (प्रशासन) / Director (Admn.)  
वित्त मंत्रालय (राजस्व विभाग)  
Minis<sup>r</sup> of Finance (Deptt. of Rev.)  
भारत सरकार / C. Govt. of India  
नई दिल्ली / New Delhi

**VERIFICATION**

Verified at New Delhi on this the 14th day of September, 2021 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.



**DEPONENT**

(अरविन्द सरन)

(ARVIND SARAN)

निदेशक (प्रशासन) / Director (Admn.)  
वित्त मंत्रालय (राजस्व विभाग)  
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### Status of Tribunal Appointments

Sl. No.	Name of Tribunal	Vacancies			Name of Hon Judge Nominated to chair SCSC and date of nomination	No. of vacancies for which recommendation received from SCSC		No. appointed by ACC		Remarks
		Chairpers on/ Chairman/ Presiding Officer/ President	Judicial Members	Administrative/ Technical Members		Judicial	Administrative/ Technical	Judicial	Administrative/ Technical	
1	Central Government Industrial Tribunal-um-Labour Court (CGIT)	11	0	0	Justice Sanjiv Khanna	-	-	-	-	First and Second meeting of SCSC were held on 07.08.2020 & 27.11.2020 respectively under the Chairmanship of Justice Sanjiv Khanna. <b>No</b> recommendation is presently pending with ACC
2	Income Tax Appellate Tribunal (ITAT)	01	26	27	Justice A.M. Khanwilkar, Judge, Supreme Court  (13.09.2018)	16	12	6	7	ACC has appointed 6 Judicial and 7 Accountant Members on 11.9.2021 based on the SCSC recommendation. No matter is pending for consideration of ACC.
3	Central Excise	0	06	11	L. Nageswara	NA	NA	NA	NA	No

Sl. No.	Name of Tribunal	Vacancies			Name of Hon Judge Nominated to chair SCSC and date of nomination	No. of vacancies for which recommendation received from SCSC		No. appointed by ACC		Remarks
		Chairpersons/ Chairman/ Presiding Officer/ President	Judicial Members	Administrative/ Technical Members		Judicial	Administrative/ Technical	Judicial	Administrative/ Technical	
	Service Tax Appellate Tribunal (CESTAT)				Rao (20.05.2020)					recommendation of SCSC is pending
4	Appellate tribunal for Forfeited Property (ATFP)	1	0	4	L. Nageswara Rao (19.03.2020)	NA	NA	NA	NA	No recommendation of SCSC is pending
5	Central Administrative Tribunal (CAT)	01	18	17	A.M. Khanwilkar (15.07.2020)	NA	NA	02	06	No recommendation of SCSC is pending. Six Administrative Members were appointed on 11.03.2020 and 2 Judicial members were appointed on 7.08.2021.
6	Railway Claims Tribunal (RCT)	0	17	07	Sanjiv Khanna (24.07.2020)	NA	NA	14	04	No recommendation of SCSC is pending. Appointment of 14 Technical Member was done on 27.5.2020. Further,

Sl. No.	Name of Tribunal	Vacancies			Name of Hon Judge Nominated to chair SCSC and date of nomination	No. of vacancies for which recommendation received from SCSC		No. appointed by ACC		Remarks
		Chairpersons/ Chairman/ Presiding Officer/ President	Judicial Members	Administrative/ Technical Members		Judicial	Administrative/ Technical	Judicial	Administrative/ Technical	
	--									4 Judicial Members were appointed on 21.10.2020
7	Securities Appellate Tribunal (SAT)	0	1	1	M.R. Shah (08.06.2020)	NA	NA	NA	NA	No recommendation of SCSC is pending
8	Debt Recovery Tribunal (DRT)	16	0	0	Vinit Saran (8.9.2021)	-	-	-	-	Last date of obtaining applications was 24.8.2021. No Recommendation of SCSC is pending.
9	Debt recovery Appellate Tribunal (DRAT)	1	0	0	DFS has requested for nomination of Chairperson	-	-	-	-	Vacancy circular issued .Last date for applications was 26.8.2021. No Recommendation of SCSC is pending.
10	Telecom Disputes and Settlement Appellate Tribunal (TDSAT)	0	0	2	L. Nageswara Rao,	0	02	0	01	No recommendation is pending. One Member-1 was appointed on 11.9.2021.
11	National Company Law Appellate	1	1	1	CJI (06.07.2021)	-	-	-	-	No recommendation of SCSC is pending



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		Chairpersons/ Chairman/ Presiding Officer/ President	Judicial Members	Administrative/ Technical Members		Judicial	Administrative/ Technical	Judicial	Administrative/ Technical	
	Tribunal (NCLAT)									
12	National Consumer Disputes Redressal Commission (NCDRC)	0	2	1	D.Y. Chandrachud (17.09.2019)	-	-	02	02	No recommendation of SCSC is pending. Recently, two Judicial Members and Two non-judicial members were appointed on 11.05.2021.
13	Appellate Tribunal for Electricity (APTEL)	1	0	0	Ashok Bhushan (20.05.2020)	-	-	-	01	No recommendation of SCSC is pending. Recently, one Technical member was appointed on 4.9.2021. Previously, One Technical member was appointed on 5.02.2020
14	Armed Forces Tribunal (AFT)	0	13	10	A.M. Khanwilkar (01.09.2020)	-	-	08	05	No recommendation of SCSC is pending. Recently, Six Judicial members

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		Chairpers on/ Chairman/ Presiding Officer/ President	Judicial Members	Administrative/ Technical Members		Judicial	Administrative/ Technical	Judicial	Administrative/ Technical	
	--									were appointed on 7.09.2021. Previously, 2 Judicial members and 5 administrative members were appointed on 2.09.2020.
15	National Green Tribunal (NGT)	0	14 *	16 *	Sanjay Kishan Kaul, for Judicial Member (26.08.2020) S.A. Nazeer, for Expert Member (02.07.2021)	-	-	04	03	No recommendation of SCSC is pending. Recently, three expert members on 5.04.2021 .Four Judicial Members were appointed on 5.4.2021
16	National Company Law Tribunal (NCLT) +	1	20	14	Justice N.V. Ramana, Judge, Supreme Court of India	11	10	08	10	No recommendation of SCSC is pending. Recently, 8 Judicial Members and Ten Administrative members were appointed on 11.09.2021.

\* In National Green Tribunal, Not less than ten but subject to maximum of twenty full time Judicial Members and Expert Members may be appointed as per Section 14(1) of the NGT Act, 2010

+NCLT is governed by provisions of Companies Act, 2013

Note: **GST Appellate tribunals** are yet to set up due to adverse HC order on legality of its constitution. As per law these benches to have three members, one judicial member and two technical members (one each from centre and states). However, this make judicial member a minority which court see as something not permissible.

F. No. A.50050/9/2016-Ad.1C(CESTAT)

Government of India  
Ministry of Finance  
Department of Revenue

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North Block, New Delhi

Dated: 18 June, 2021

Office Memorandum

**Subject: List of Secretaries nominated as Members in the SCSC for selection of Chairpersons/Members of various Tribunals - reg.**

The Central Government has recently promulgated the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021 which, inter-alia, provides that the Search-cum-Selection-Committee (SCSC) headed by the Chief Justice of India or a Judge of Supreme Court nominated by him, shall have two Secretaries to Government of Ministry/Department other than the administrative Ministry/Department nominated by the Central Government as Members.

2. Since the selection process for Chairpersons and Members of various Tribunals is dependent upon nomination of the two Secretaries, the Cabinet Secretariat was requested to take necessary action to nominate separate set of two Secretaries for SCSC, for each of the Tribunals.
3. Vide communication No. 08/01/2021-CS(A) dated 08.06.2021, the Cabinet Secretariat has conveyed the approval of Competent Authority to the list of Secretaries for being nominated as Members in the SCSC for selection of Chairpersons/Members of various Tribunals.
4. In light of the above, the list of Secretaries nominated as Members in the SCSC for selection of Chairpersons/Members of various Tribunals is attached herewith for information and necessary action.

**Encl.: As above**




(Arvind Saran)  
Director(Admn)  
Tele: 2309 2954

- 1) Secretary, Ministry of Labour & Employment (in respect of the Industrial Tribunal)
- 2) Secretary, Department of Legal Affairs (in respect of Income Tax Appellate Tribunal).

- 3) Secretary, Department of Personnel & Training (in respect of Central Administrative Tribunal).
- 4) Secretary, Railways Board, Ministry of Railways (in respect of Railway Claims Tribunal)
- 5) Secretary, Department of Economic Affairs (in respect of Securities Appellate Tribunal).
- 6) Secretary, Department of Financial Services (in respect of Debts Recovery Tribunal and Debts Recovery Appellate Tribunal).
- 7) Secretary, Department of Telecommunication (in respect of Telecom Disputes Settlement and Appellate Tribunal).
- 8) Secretary, Ministry of Corporate Affairs (in respect of National Company Law Appellate Tribunal)
- 9) Secretary, Department of Consumer Affairs (in respect of National Consumer Disputes Redressal Commission).
- 10) Secretary, Ministry of Power (in respect of Appellate Tribunal for Electricity).
- 11) Secretary, Ministry of Defence (in respect of Armed Force Tribunal).
- 12) Secretary, Ministry of Environment, Forest and Climate Change (in respect of National Green Tribunal)

**Copy to:**

Dr. Amandeep Garg, Joint Secretary, Cabinet Secretariat, Rashtrapati Bhawan: For kind information.



**(Arvind Saran)**  
**Director(Admn)**  
**Tele: 2309 2954**

## Annexe

Sl. No.	Name of Tribunal, Appellate Tribunal or Authority.	Members of SCSC
1.	Industrial Tribunal constituted by the Central Government under the Industrial Disputes Act, 1947 (14 of 1947).	1. Secretary, D/o Promotion of Industry & Internal Trade 2. Secretary, M/o Micro, Small & Medium Enterprises
2.	Income-tax Appellate Tribunal under the Income-tax Act, 1961 (43 of 1961).	1. Secretary, M/o Corporate Affairs 2. Secretary, D/o Revenue
3.	The Customs, Excise and Service Tax Appellate Tribunal under the Customs Act, 1962 (52 of 1962).	1. Secretary, D/o Personnel & Training 2. Secretary, D/o Commerce
4.	Appellate Tribunal under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976).	1. Secretary, D/o Personnel & Training 2. Home Secretary
5.	Central Administrative Tribunal under the Administrative Tribunal Act, 1985 (13 of 1985).	1. Secretary, D/o Revenue 2. Secretary, D/o Legal Affairs
6.	Railway Claims Tribunal under the Railway Claims Tribunal Act, 1987 (54 of 1987).	1. Secretary, D/o Consumer Affairs 2. Secretary, D/o Legal Affairs
7.	Securities Appellate Tribunal under the Securities Exchange Board of India Act, 1992 (15 of 1992).	1. Secretary, M/o Corporate Affairs 2. Secretary, D/o Revenue
8.	Debts Recovery Tribunal under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993).	1. Secretary, D/o Economic Affairs 2. Secretary, M/o Corporate Affairs
9.	Debts Recovery Appellate Tribunal under the Recovery of Debts Due to Banks and Financial Institutes Act, 1993 (51 of 1993).	1. Secretary, D/o Economic Affairs 2. Secretary, M/o Corporate Affairs
10.	Telecom Disputes Settlement and Appellate Tribunal under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997).	1. Secretary, M/o Electronics & Information Technology 2. Secretary, M/o Civil Aviation
11.	National Company Law Appellate Tribunal under the Companies Act, 2013 (18 of 2013).	1. Secretary, D/o Financial Services 2. Secretary, D/o Legal Affairs
12.	National Consumer Disputes Redressal Commission under the Consumer Protection Act, 2019 (35 of 2019).	1. Secretary, D/o Promotion of Industry & Internal Trade 2. Secretary, D/o Food & Public Distribution
13.	Appellate Tribunal for Electricity under the Electricity Act, 2003 (36 of 2003).	1. Secretary, M/o Petroleum & Natural Gas 2. Secretary, M/o New & Renewable Energy
14.	Armed Forces Tribunal under the Armed Forces Act, 2007 (55 of 2007).	1. Secretary, D/o Legal Affairs 2. Secretary, D/o Personnel & Training
15.	National Green Tribunal under the National Green Tribunal Act, 2010 (19 of 2010).	1. Home Secretary 2. Secretary, D/o Personnel & Training