

The Prohibition of Benami Property Transactions (Conditions of Services of Members of Adjudicating Authority) Rules, 2019

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The Prohibition of Benami Property Transactions (Conditions of Services of Members of Adjudicating Authority) Rules, 2019¹

In exercise of the powers conferred by Section 68 read with sub-section (2) of Section 9, sub-section (1) of Section 13 of the **Prohibition of Benami Property Transactions Act, 1988** (45 of 1988) (hereafter referred to as 'the Act'), the Central Government hereby makes the following rules, namely—

1. Short title and commencement.—(1) These rules may be called the Prohibition of Benami Property Transactions (Conditions of Services of Members of Adjudicating Authority) Rules, 2019.

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

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

(a) "Act" means the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988);

(b) "Search-cum-Selection Committee" means the Search-cum-Selection Committee as referred to in Rule 3;

(c) "section" means a section of the Act.

(2) Words and expression used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3. The Methods of recruitment.—(1) The Member of the Adjudicating Authority shall be appointed by the Central Government, on the recommendation of the Search-cum-Selection Committee specified in sub-rule (4) in respect of the said members.

(2) The Search-cum-Selection Committee shall determine its procedure for making its recommendation.

(3) No appointment of Member of the Adjudicating Authority shall be invalid merely by reason of any vacancy or absence in the Search-cum-Selection Committee.

(4) The Search-cum-Selection Committee for the post of the Member of the Adjudicating Authority shall consist of,—

(i) Secretary to the Government of India, Ministry of Finance, Department of Revenue — Chairperson;

(ii) Secretary to the Government of India, Ministry of Law and Justice, Department of Legal Affairs — Member;

(iii) Chairperson, Central Board of Direct Taxes — Member.

1. Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 379(E), dated May 27, 2019 and published in the Gazette of India, Extra., Part II, Section 3(i), dated 27th May, 2019, pp. 4-7, No. 318

4. Medical fitness.—No person shall be appointed as the Member of the Adjudicating Authority, unless he is declared medically fit by an authority specified by the Central Government.

5. Resignation.—The Member of the Adjudicating Authority may, by writing under his hand addressed to the Central Government, resign his office at any time:

Provided that he shall, unless permitted by the Central Government to relinquish his office from the date as specified in the resignation letter, continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government or until a person duly appointed as a successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

6. Procedure for inquiry for removal of Member of Adjudicating Authority.—(1) If a written complaint is received by the Central Government alleging any charge as referred to in clause (d) of clause (e) of the sub-section (1) of Section 14 of the Act, in respect of a Member of the Adjudicating Authority, the Board shall make a preliminary scrutiny of such complaint.

(2) If on preliminary scrutiny, the Board is of the opinion that there are reasonable grounds for making an inquiry into the truth of any charges in respect of the Member of the Adjudicating Authority, it, with the approval of Central Government, shall make a reference to the Committee constituted in this behalf to conduct the inquiry.

(3) The Committee shall complete the inquiry within such period, not exceeding the period of twelve months from the date of receipt of the reference, as may be specified by the Central Government:

Provided that where it is not possible to complete the inquiry within the period specified by the Central Government, the Committee may record the reasons and seek extension of time from Central Government in writing, which may allow in additional time not exceeding the period of six months for completion of inquiry, at a time.

(4) After the conclusion of the inquiry, the Committee shall submit its report to the Central Government stating therein its findings and the reasons thereof on each of the charges separately along with such observations as it may deem fit.

(5) The Committee shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and shall regulate its own procedure, including the fixing of date, place and time of its inquiry.

7. Salary and allowances.—(1) The Chairperson of the Adjudicating Authority shall be paid a salary of Rs 1,82,200-2,24,100 and shall be entitled to draw allowances as are admissible to a Central Government Officer holding post carrying the same pay.

(2) The Member of the Adjudicating Authority shall be paid a salary of Rs 1,44,200-2,18,200 and shall be entitled to draw allowances as are admissible to a Central Government Officer holding post carrying the same pay.

(3) In case a person, appointed as the Chairperson or a Member of the Adjudicating Authority, is in receipt of any pension, the pay of such person shall be reduced by the gross amount of pension drawn by him.

8. Pension, Gratuity and Provident Fund.—(1) In case of a member of the Indian Legal Service or a member of the Indian Revenue Service appointed to the post of the Chairperson or Member of the Adjudicating Authority, the service so rendered in the Adjudicating Authority shall count for pension to be drawn in accordance with the rules of the service to which he belongs and he shall be continued to be governed by the provisions of the General Provident Fund (Central Service) Rules, 1960, the Contributory Provident Fund (India) Rules, 1962 and the Contribution Pension System, if he was governed by such provisions before his appointment as the Chairperson or the Member.

(2) Additional pension and gratuity shall not be admissible for service rendered in the Adjudicating Authority.

9. Leave.—(1) The Member of the Adjudicating Authority shall be entitled to thirty days of earned Leave for every year of service.

(2) The Casual Leave not exceeding eight days in a calendar year shall be granted to the Member of the Adjudicating Authority.

(3) The payment of leave salary during leave shall be governed by Rule 40 of the Central Civil Services (Leave) Rules, 1972.

(4) The Member of the Adjudicating Authority shall be entitled to encashment of leave in respect of the earned Leave standing to his credit, subject to the condition that maximum leave encashment, including the amount received at the time of retirement from previous service shall not in any case exceed the prescribed limit under the Central Civil Service (Leave) Rules, 1972.

10. Leave sanctioning authority.—(1) Leave sanctioning authority,—

(a) for Chairperson of the Adjudicating Authority shall be the Central Government, who shall also be sanctioning authority for Members, in case of absence of Chairperson;

(b) for the Member of the Adjudicating Authority shall be the Chairperson.

(2) The Central Government shall be the sanctioning authority for foreign travel to the Chairperson or the Member of the Adjudicating Authority.

11. Accommodation.—The Members shall not be eligible for allotment of general pool residential accommodation but they shall be entitled to draw house rent allowance at the rates as are admissible to other Central Government officers of equivalent pay:

Provided that if the person appointed as Member is already in occupation of Government accommodation for which Central Government officers of equivalent

pay are eligible, he shall be allowed to retain such accommodation from the date of his joining the Adjudicating Authority.

12. Declaration of Financial and other Interests.—The Member of the Adjudicating Authority shall, before entering upon his office, declare his assets, his liabilities and financial and other interests.

13. Other conditions of service.—(1) The other conditions of service of the Member of the Adjudicating Authority with respect to which no express provision has been made in these rules, shall be such as are admissible to a Central Government Officer of a corresponding status.

(2) The Member of the Adjudicating Authority shall not practice before the Adjudicating Authority after retirement from the service of the Adjudicating Authority.

(3) The Member of the Adjudicating Authority shall not undertake any arbitration work while functioning in these capacities in the Adjudicating Authority.

(4) The Member of the Adjudicating Authority shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Adjudicating Authority:

Provided that nothing contained in this rule shall apply to any employment under the Central Government or a State Government or a local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in clause (45) of Section 2 of the Companies Act, 2013 (18 of 2013).

14. Oaths of office and secrecy.—Every person appointed to be the Member of the Adjudicating Authority shall, before entering upon his office, make and subscribe an oath of office and secrecy in Form I and Form II annexed to these rules.

15. Power to relax.—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

16. Interpretation.—If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.

17. Saving.—Nothing in these rules shall affect reservation, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

FORM I*(See Rule 14)**Form of Oath of Office for the Chairperson/Member of the Adjudicating Authority*

I, A.B., having been appointed as Chairperson/Member of Adjudicating Authority do solemnly affirm/do swear in the name of God that I will faithfully and conscientiously discharge my duties as the Chairperson/Member of Adjudicating Authority to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws of land.

FORM II*(See Rule 14)**Form of Oath of Secrecy for the Chairperson/Member of the Adjudicating Authority*

I, A.B., having been appointed as the as Chairperson/Member of Adjudicating Authority do solemnly affirm/do 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 Chairperson/Member of Adjudicating Authority except as may be required for the due discharge of my duties as the Chairperson/Member of Adjudicating Authority.
