

**NATIONAL COMPANY LAW TRIBUNAL (NCLT) &
NATIONAL COMPANY LAW APPELLANT TRIBUNAL
(NCLAT)
(SECTIONS 407 TO 434)**

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(2)

	NCLT	NCLAT
Constitution	Central Government has power under Section 408 to constitute tribunal and appoint President and such number of Judicial and Technical Members as the Central Government may deem necessary. Vacancy in Tribunal not to invalidate acts or proceedings. (S. 431)	Central Government has power under Section 410 to constitute appellate tribunal and appoint Chairperson and number of Judicial and Technical Members, not exceeding eleven , as the Central Government may deem fit. Vacancy in Appellate Tribunal not to invalidate acts or proceedings. (S. 431)
Qualification for appointment	<p>President- who is or has been a Judge of a High Court for five years.</p> <p>Judicial Member- unless he— (a) is, or has been, a judge of a High Court; or (b) is, or has been, a District Judge for at least five years; or (c) has, for at least ten years been an advocate of a court.</p> <p>Technical Member- unless he— (a) has, for at least fifteen years been a member of the Indian Corporate Law Service or Indian Legal Service out of which at least three years shall be in the pay scale of Joint Secretary to the Government of India or equivalent or above in that service; or (b) is, or has been, in practice as a chartered accountant for at least fifteen years; or (c) is, or has been, in practice as a cost accountant for at least fifteen years; or (d) is, or has been, in practice as a company secretary for at least fifteen years; or (e) is a person of proven ability,</p>	<p>Chairperson- who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court.</p> <p>Judicial Member- who is or has been a Judge of a High Court or is a Judicial Member of the Tribunal for five years.</p> <p>Technical Member- who shall be proven his ability, integrity and standing having special knowledge and experience, of not less than twenty-five years, in law, industrial finance, industrial management or administration, industrial reconstruction, investment, accountancy, labour matters, or such other disciplines related to management, conduct of affairs, revival, rehabilitation and winding up of companies. (S. 411)</p>

	<p>integrity and standing having special knowledge and experience, of not less than fifteen years, in law, industrial finance, industrial management or administration, industrial reconstruction, investment, accountancy, labour matters, or such other disciplines related to management, conduct of affairs, revival, rehabilitation and winding up of companies; or (f) is, or has been, for at least five years, a presiding officer of a Labour Court, Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947. (Sect. 409)</p>	
<p>Selection of Members</p>	<p>The President of the Tribunal shall be appointed after consultation with the Chief Justice of India.</p> <p>The Members of the Tribunal and the Technical Members of the Appellate Tribunal shall be appointed on the recommendation of a Selection Committee consisting of—</p> <p>(a) Chief Justice of India or his nominee—Chairperson; (b) a senior Judge of the Supreme Court or a Chief Justice of High Court—Member; (c) Secretary in the Ministry of Corporate Affairs—Member; (d) Secretary in the Ministry of Law and Justice—Member; and (e) Secretary in the Department of Financial Services in the Ministry of Finance—Member.</p> <p>The Secretary, Ministry of Corporate Affairs shall be the Convener of the Selection Committee.</p> <p>The Selection Committee shall determine its procedure for recommending persons under subsection (2).</p> <p>No appointment of the Members of the Tribunal or the Appellate Tribunal shall be invalid merely by reason of any vacancy or any defect</p>	<p>The chairperson and Judicial Members of the Appellate Tribunal shall be appointed after consultation with the Chief Justice of India.</p> <p>(2) The Technical Members of the Appellate Tribunal shall be appointed on the recommendation of a Selection Committee same as NCLT. (S. 412)</p>

	in the constitution of the Selection Committee. (S. 412)	
Civil court not to have jurisdiction	The NCLT have exclusive jurisdiction to entertain any suit or proceeding is empowered to determine by or under this Act or any other law for the time being in force and no injunction shall be granted by any court or other authority. (S. 430)	The Appellate Tribunal same as NCLT (S. 430)
Expeditious disposal	The tribunal may dispose the petition within three months to the file and president/chairperson as the case may be shall recorded the reasons for not disposing the petition within period so specified, extend the period not exceeding 90 days as may consider necessary. (S. 422)	The Appellate Tribunal same as NCLT (S. 422)
Benches of Tribunal	<ol style="list-style-type: none"> 1. Such number of benches specified by the Central Government. 2. The Principal Bench of the Tribunal shall be at New Delhi. 3. Benches consisting of two Members out of whom one shall be a Judicial Member and the other shall be a Technical Member. 4. The President may, by general or special order, specify, in respect of such class of cases or such matters pertaining to such class of cases a Bench consisting of a single Judicial Member and exercise the powers of the Tribunal. (S. 419) 	No other bench.
Term of office	The President- five years and until he attains the age of 67yrs, and Eevery members- five years and until he attains the age of 65yrs. They shall be eligible for re-appointment for another term of five years. Minimum age of members for appointment complete 50yrs. (S. 413)	The chairperson- five years and until he attains the age of 70yrs, and Eevery members- five years and until he attains the age of 67yrs. They shall be eligible for re-appointment for another term of five years. Minimum age of members for appointment complete 50yrs. (S. 413)

Resignation of Members	<p>The President or any Member may, by notice in writing under his hand addressed to the Central Government, resign from his office:</p> <p>Provided that the President, the Chairperson, or the Member shall 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 his successor enters upon his office or until the expiry of his term of office, whichever is earliest. (S. 416)</p>	the Chairperson or any Member same as NCLT (S. 416)
Removal of Members	<p>The Central Government may, after consultation with the Chief Justice of India, remove from office the President, Chairperson or any Member on ground of an insolvency, moral turpitude, physically or mentally incapable of act, acquired such financial or other interest, and abused his position against the public interest. They shall not be removed on any of the grounds without giving him a reasonable opportunity of being heard. (S. 417)</p>	Chairperson or any Member same as NCLT. (S. 417)
Procedure	<p>The Tribunal while disposing the petition not bound by the Code of Civil Procedure, 1908. It shall be guided by the principles of natural justice, and, subject to the other provisions of this Act and of any rules made there under, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure. (S. 424)</p>	The Appellate Tribunal same as NCLT. (S. 424)
Orders of Tribunal	<p>The tribunal after giving a reasonable hearing opportunity pass such orders thereon as it thinks fit. And at any time within two years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the</p>	

	parties. The Tribunal shall send a copy of every order passed under this section to all the parties concerned. (S. 420)	
Appeal	An Appeal from orders of the Tribunal file within 45 days to the Appellate Tribunal. The appellate tribunal if satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period can be exceeding 45 days a further period. (S. 421)	An Appeal from orders of the Appellate Tribunal file within 60 days to the Supreme Court. The Supreme Court if satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period can be exceeding 60 days a further period. (S. 423)
Powers	The powers of the Tribunal are- <ol style="list-style-type: none"> 1. Power as a Civil Court under Code of Civil Procedure, 1908 (S. 424). 2. Execution of an order as decree of a Court (S. 424 (3) & (4)). 3. Power to punish for contempt (S. 425) 4. Power to seek assistance of Chief Metropolitan Magistrate, etc. (S. 429) 5. Delegation of powers to its officers or employees or any other authorized person. (S. 426) 	Same as NCLT
Others	President, Members, officers, etc., of the Tribunal and Appellate Tribunal to be public servants (S. 427). Protection of action taken by members of the Tribunal and Appellate Tribunal in good faith (S. 428). Parties have right to legal representation (S. 432). 433. The provisions of the Limitation Act, 1963 shall apply to proceedings or appeals of NCLT & NCLAT (S. 433).	Same as NCLT.