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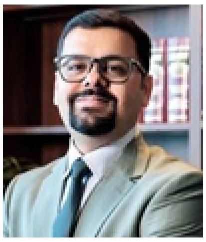
Parliament Answers the Court - The Tribunals Reforms Bill, 2026, the National Tribunals Commission, and the Still-Open Question of GSTAT



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On 10th August 2026, less than nine months after the Hon'ble Supreme Court's judgment in *Madras Bar Association v. Union of India & Anr.* (Writ Petition (C) No. 626 and 1018 of 2021) [(2025) 36 Centax 340 (S.C.)], the Lok Sabha passed the Tribunals Reforms Bill, 2026. It did so without any discussion, by voice vote, amid heavy protests from Opposition members. Discussion or not, this Bill may well be one of the most significant reforms to the quasi-judicial administrative hierarchy of our justice delivery system envisaged under our constitutionally governed parliamentary democracy and it deserves to be read closely both for what it appears to fix, and for what it conspicuously leaves open, particularly for the GST Appellate Tribunal (GSTAT).

The issue, as the readers of this space will recall, is not new. It carries a long lineage right from S.P. Sampath Kumar and L. Chandra Kumar to the Madras Bar Association series, the most recent of which was the 19th November 2025 judgment that struck down the Tribunal Reforms Act, 2021 for reviving provisions the Court had already invalidated. This Bill, as and when it receives Presidential assent and is notified, will be yet another chapter in the chequered history of the tribunalisation of justice in India and, most importantly, in the manner of choosing the judges who man these tribunals.

I. A Legislative Response, Nine Months in the Making

The rationale and background of the present Bill stems directly from the November 2025 Madras Bar Association judgment, in which the Hon'ble Supreme Court directed the Union to constitute a National Tribunal Commission within four months. The Court had also catalogued, once again, the defects that had repeatedly been struck down across multiple judgments: a minimum age of 50 years, 4-year tenure, two-name SCSC panels, executive-majority selection committees, service conditions aligned to civil servants, and unchecked executive discretion in reappointment.

II. The National Tribunals Commission: Structure and Mandate

Section 3 of the Bill provides for the constitution of the National Tribunals Commission (the 'Commission'), headquartered at New Delhi. Its composition is a direct structural response to the demand traceable to long line of Supreme Court judgements (as quoted above) for a single, independent nodal body to manage tribunal appointments, infrastructure, and discipline, free of ministry control.

- Composition: One Chairperson and four Members - two Judicial and two Technical
- Chairperson: a Judge of the Supreme Court or a Chief Justice of a High Court
- Judicial Member: a Chief Justice or Judge of a High Court
- Technical Member: a person of ability, integrity and standing with at least 25 years' experience in public administration, finance, law, accountancy, banking, management or technology

The Commission's mandate covers: (a) selecting Chairpersons and Members of the Tribunals listed in the First Schedule, through Search-cum-Selection Committees (SCSCs) constituted under Section 13; (b) reviewing the performance of Tribunals; (c) overseeing inquiries into complaints against Tribunal Chairpersons and Members; and (d) developing and maintaining the National Tribunals Data Grid.

The Chairperson and Judicial Members of the Commission are appointed by the Central Government in consultation with the Chief Justice of India, for a **term** of **five years** or until age seventy, whichever is earlier. Decisions are taken by majority, with the Chairperson holding a casting vote, a structural detail that matters considerably once one looks at how that casting vote is distributed down at the Search-cum-Selection Committee level.

III. Search-cum-Selection Committees: Curing the SCSC Defect

The selection of Tribunal Chairpersons is entrusted to an SCSC comprising the Commission's Chairperson (who chairs the Committee and holds the casting vote), a Technical Member of the Commission, a retired Chief Justice of a High Court nominated by the Commission's Chairperson, a Government Secretary, two empanelled experts, and a Member Secretary. For Members of Tribunals, the SCSC is instead headed by a Judicial Member of the Commission, with a retired High Court Judge in place of the retired Chief Justice.

It is worth setting this against what Section 3(3) of the 2021 Act actually provided. The 2021 SCSC consisted of the Chief Justice of India or his nominee as Chairperson (casting vote), two Members who were Secretaries to the Government of India, one Member who was the outgoing or sitting Chairperson of the Tribunal (or, on re-appointment, a retired judge), and a Member-Secretary from the administrative Ministry who alone had no vote. In other words, of four voting members, two were serving government secretaries by design - a structural executive weight the 2026 Bill removes by replacing one of those two secretary seats with a retired Chief Justice or Judge of the High Court, and by adding two expert Members to assist on suitability without diluting the vote. Only one voting Government Secretary now sits on each Committee, against a judicially-headed core of three. Second, for each vacancy the Committee forwards one name for appointment and one additional name for a waiting list and not the earlier two-name panel from which the executive could pick either candidate. The Central Government must then process the recommendation and make the appointment within three months of receipt, a time-bound obligation, new in 2026, that directly targets the chronic vacancy problem that has plagued tribunals for years.

IV. Tenure, Reappointment and Removal

Chairpersons of Tribunals will hold office for **five years** or until age seventy, whichever is earlier; Members, for **five years** or until age sixty-seven. This finally aligns tenure with the minimum-five-year standard the Court has insisted upon since MBA-IV.

Removal repays a closer read of the actual text, because the Bill runs two different tracks depending on whether the person removed sits on the Commission or on a Tribunal. Under Section 6, a Chairperson or Member of the Commission itself can only be removed on the grounds of financial interest or abuse of position after an inquiry by a committee headed by a sitting Judge of the Supreme Court nominated by the Chief Justice of India; the other three grounds (insolvency, moral-turpitude conviction, incapacity) require no such inquiry. Under Section 16, the same six-plus grounds apply to Tribunal Chairpersons and Members, but the Bill adds two new ones not found in the 2021 Act at all - being 'found incompetent or inefficient,' and having 'engaged... in any paid assignment.' For these added, more contestable grounds, the process is: the administering Ministry first conducts a preliminary inquiry, then refers the matter to the Commission for a formal inquiry, which then recommends action to the Central Government. That is a real improvement on the 2021 Act, under which removal proceeded on the recommendation of the same Search-cum-Selection Committee that made the appointment.

What the Bill does not lock in, however, is service conditions. Section 3(1) of the 2021 Act had hard-coded the notorious 'not completed the age of fifty years' bar directly into the primary statute, which is exactly why the Court could strike it down as a standalone constitutional defect. Section 14(1) of the 2026 Bill takes a different route: it does not repeat that bar, but it also does not lock in anything and this procedure is left to be 'prescribed' by Central Government through Rules. The defect has not yet been repeated. Whether the Rules restore an age floor, keep salaries pegged to civil-service scales, or genuinely deliver parity with the higher judiciary is now a question for delegated legislation rather than the Act itself. This is worth watching closely once the Rules are notified.

V. Sixteen Tribunals and the Continuing Absence of GSTAT

Having now read the First Schedule of both instruments side by side, the more precise and, for GST practitioners, more sobering finding is this: the sixteen Tribunals covered are almost identical in the 2021 Act and the 2026 Bill. Every entry from the 2021 Schedule reappears in 2026 (the Industrial Tribunal under the Industrial Relations Code, 2020 in place of the since-repealed Industrial Disputes Act, 1947; the Income-tax Appellate Tribunal now tied to the new Income-tax Act, 2025 rather than the 1961 Act it replaced). The 2026 list is: the Customs, Excise and Service Tax Appellate Tribunal; the Appellate Tribunal under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976; the Central Administrative Tribunal and State Administrative Tribunals; the Railway Claims Tribunal; the Securities Appellate Tribunal; the Debts Recovery Tribunal and Debts Recovery Appellate Tribunal; the Telecom Disputes Settlement and Appellate Tribunal; the Appellate Tribunal for Electricity; the Armed Forces Tribunal; the National Green Tribunal; the National Company Law Appellate Tribunal; the National Consumer Disputes Redressal Commission; the Industrial Tribunal constituted by the Central Government; and the Income-tax Appellate Tribunal.

GSTAT was never on the 2021 Schedule either as it did not yet exist in its current form when that Act was passed so its absence from the 2026 Bill is not, strictly, a new omission. What makes it noteworthy now is timing, not novelty: by the time this Bill was drafted, GSTAT was already a live, staffed institution notified under the CGST Act. That framework carries some of the same defects like minimum age, four-year tenure, two-name panels, executive-heavy selection, that the Supreme Court struck down in the Tribunal Reforms Act, 2021 and again in November 2025 Order. Parliament had, in this Bill, a ready-made opportunity to fold GSTAT into the same cured architecture it built for the other sixteen. However, it chose not to in its wisdom.

The Bill does leave a door open, and it is worth naming precisely: Section [18(2)] empowers the Central Government to amend the First Schedule by notification, therefore no fresh Act of Parliament is needed to bring GSTAT within the Commission's fold. Until that notification is issued, however, GSTAT's already-completed appointments continue to rest on the very Section [110] foundation the Court has repeatedly found constitutionally infirm, and its future appointments will continue under that same unreformed provision unless and until the CGST Act is separately amended or GSTAT is added to Schedule I.

VI. Institutional Significance

Read as a whole, the Tribunals Reforms Bill, 2026 completes at least on paper an arc that runs from S.P. Sampath Kumar through L. Chandra Kumar's call for a single nodal agency, through the MBA series, to the November 2025 judgment's explicit direction. For the first time, Parliament has actually legislated the independent commission the Court has been asking for since 1997, rather than leaving appointments fragmented across sixteen different ministries and parent statutes. The National Tribunals Data Grid, intended as a comprehensive repository of case-related information across these Tribunals, should also meaningfully improve transparency for litigants and enable real performance monitoring something GST, income-tax and customs litigants have been denied for years amid inconsistent, tribunal-by-tribunal reporting.

VII. Conclusion

Measured against the specific defects the Supreme Court has struck down repeatedly and most recently in November 2025, the Tribunals Reforms Bill, 2026 gets most of the architecture right. The nodal Commission exists. Tenure is fixed at five years. The two-name panel has given way to a single recommended name. The Search-cum-Selection Committees are judicially weighted, with a constitutional court judge holding the casting vote rather than a bureaucrat. Removal on the more serious grounds now requires a Supreme Court-judge-led inquiry. These are not cosmetic changes; they track the Court's reasoning closely enough that a repeat of the 2021 "legislative override" finding looks, for now, unlikely on this front.

What remains unfinished is no less important. Qualifications, salaries, allowances, and removal machinery for every Schedule I Tribunal, the very parity with the higher judiciary the Court has insisted on are all left to **subordinate Rules** that do not yet exist, and that is exactly the kind of gap through which the old defect could quietly return in delegated form. Reappointment, while now structured around performance and consultation, still ends in executive hands. And for practitioners in this specific field, the most pressing gap is the one closest to home: GSTAT does not appear on the list of Tribunals this Bill brings under the National Tribunals Commission, leaving its appointments to rest, for now, on the very foundation this reform was built to replace.

One hopes the Rules will be notified soon, and notified with the same fidelity to the Court's reasoning that the Bill itself largely shows, so that no misadventure is attempted through delegated legislation to reopen, by the back door, a question of judicial independence which the Hon'ble Court have already settled the hard way.

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