

Guidelines for empanelment and appointment of the retired JAG/SAG/HAG officers of DOT/BSNL/CPSE as arbitrator for all cases in MTNL.

It is proposed to form arbitration panels at MTNL Delhi and MTNL Mumbai comprising retired officers of DOT/BSNL/MTNL/other CPSE's. A person can be empanelled at MTNL Delhi or Mumbai, depending upon the city wherein he/she resides.

This panel will be applicable for all kinds of arbitration cases in MTNL and following guidelines would comprehensively govern the empanelment of all such persons and also govern the engagement of such empanelled persons as Arbitrator.

1. Conditions for empanelment/appointment of superannuated officers as Arbitrator.

1.1 **Eligibility:** For empanelment to the panel, the retired officers must fulfill the following conditions.

1.1.1 The person should have retired on superannuation at JAG level/E-7 level or above from DOT/BSNL/MTNL/other CPSE's.

1.1.2 There must not have any vigilance case pending against him/her at the time of his/her retirement on superannuation.

1.1.3 No penalty should have been imposed on such person in any vigilance/ disciplinary case during his/her entire career.

1.1.4 Such persons shall not be employed/engaged anywhere.

1.1.5 Such empanelled persons shall be allowed to be on MTNL panel upto 70 years of age only & hence the applicant shall be of less than 70 years of age as on 01.01.2015.

1.1.6 Such person shall be physically and mentally fit.

1.1.7 Such person shall not have been convicted or facing criminal prosecution.

1.2 Classifications of Arbitrators

1.2.1 The panel of Arbitrators shall be designated in three classes.

1.2.2 **Class I:** The officers retired at JAG/DGM(E-7 & E-8) level shall be empanelled under this class.

1.2.3 **Class II:** The officers retired at SAG/GM(E-9) and above level shall be empanelled under this class.

1.2.4 **Class III:** The officers retired at HAG/E-9 and above level shall be empanelled in this class.

2. Allocation of cases:

- 2.1 Depending upon the amount in dispute, the cases would be allocated to empanelled persons as per clause 2 and the number of cases referred to each shall not be more than Two(2) at any point of time.
- 2.2 The cases where the amount in dispute is more than Rs 1.5 lakhs and upto Rs 5 lakhs, shall be referred to the persons empanelled under Class-I.
- 2.3 The cases where the amount in dispute is more than Rs 5 lakh and upto Rs 2 Crore, shall be referred to the persons empanelled under Class-II.
- 2.4 The cases where the amount in dispute is more than Rs 2 Crore, shall be referred to the persons empanelled under Class-III.
- 2.5 Generally, no Arbitrator would be appointed from the empanelled person wherein the amount in dispute is up to 1.5 lakhs. However, CMD, MTNL based on specific of a case can make the appointment even in such cases.
- 2.6 Notwithstanding anything contained in the preceding sub clauses, MTNL depending upon the experience and service records, can refer any matter to any Person empanelled in any of the above classes at its discretion.

3. Payment Terms:

Fixation of Arbitration fee and other charges will be dependent on the value of Amount in Dispute and would be regulated as per the following conditions.

- 3.1 For the each case in which an empanelled person is appointed as an Arbitrator and the amount in dispute is upto Rs 5 Lakhs, the person so appointed as an Arbitrator would be paid a lump sum fee of Rs 10000.
- 3.2 For the each case in which an empanelled person is appointed as an Arbitrator and the amount in dispute is more than Rs 5 lakhs & upto Rs 50 Lakhs, the person so appointed as an Arbitrator would be paid a lump sum fee of Rs 25000.
- 3.3. For the each case in which an empanelled person is appointed as an Arbitrator and the amount in dispute is more than Rs 50 lakhs & upto Rs 2 crores, the person so appointed as an Arbitrator would be paid a lump sum fee of Rs 50000.
- 3.4. For the each case in which an empanelled person is appointed as an Arbitrator and the amount in dispute is more than 2 crores, the person so appointed as an Arbitrator would be paid a lump sum fee of Rs 60000.
- 3.5. In addition to above each Arbitrator would be paid towards Clerical, stationary and other miscellaneous charges etc, at the rate of 10 % of the fee payable to him.
- 3.6 As per provisions of the Arbitration Act, the fee payable to the Arbitrator shall be borne equally by both the parties. The above fee structure is the maximum amount that is payable for a case. Arbitrator is required to charge the half of the above amount from the other party while the remaining amount shall be paid by MTNL.

- 3.7 The fee payable to the Arbitrator shall be paid in three installments, first two installments would each be at the rate of 25% of the total fee payable and be paid on first two hearings in a matter and remaining 50% would be paid at the time of publication of an Award.
- 3.8 No travelling/transport or any other facility shall be provided by MTNL to the Arbitrator.
- 3.9 Payment shall be made as per above payment schedule, within 60 days of the submission of the bills by the Arbitrator to the concerned unit of MTNL.

4. **Methodology for Empanelment**

- 4.1 The persons who wish to get empanelled should submit their application in the prescribed format (attached) for empanelment of Arbitrators.
- 4.2 For empanelment of Arbitrators with MTNL Delhi, Mumbai and Corporate Office the applications may be sent to DGM(legal) MTNL, Corporate Office, Room No 5316, 5th Floor, MTNL building, CGO Complex, Lodhi Road, New Delhi.
- 4.3 The application received will be submitted to the Screening Committee at MTNL Corporate Office.
 - 4.3.1 The Screening Committee would comprise of GM (MM) Corporate Office, GM(HR) Corporate Office, GM(Fin) Corporate Office. DGM (Legal) MTNL Corporate Office will be the convener of the committee. The committee may also co-opt any other member from the field units, if required.
 - 4.3.2 The above screening committee after examining all the applications would recommend the name of persons to be included in the panel. The panel would be finalized after the approval of CMD, MTNL on the recommendations of the committee.
- 4.4 The empanelment would be valid for two years and before the expiry of such period, the persons who are already empanelled with MTNL may be given an opportunity for re-empanelment subject to applicable eligibility conditions including age of 70 years or less and review of their work by MTNL.

5. **Duties and Responsibilities of Arbitrators**

- 5.1 An arbitrator should be fair and absolutely impartial. He should have no bias and should decide the dispute referred to him in a judicious manner and not capriciously or whimsically. The terms of reference under the arbitration agreement should be strictly followed.
- 5.2 An Arbitrator should not disregard the principles of natural justice. He must have scrupulous regard to the ends of justice. He should have no interest, direct or remote, in the subject matter of the dispute or in any of the parties and should not act as an advocate of the party appointing him.

- 5.3 An Arbitrator should not accept any illegal gratification or receive any pecuniary inducement which may affect the fair determination of the matters submitted for arbitration. An arbitrator should not engage in private discussion or conference with one of the parties on any matter connected with the case, in the absence of the opposite party.
- 5.4 An arbitrator must give the parties notice of hearing and sufficient opportunity to present their case. Both the parties must be given equal opportunity to produce evidence and to put forward their case.
- 5.5 The arbitrator is entitled to proceed ex parte if it is clear that the party to whom reasonable notice has been given does not appear or if there is clear indication that he has no intention of appearing.
- 5.6 An Arbitrator should not misconduct himself or the proceedings. Failure to perform essential duties of an arbitrator is deemed to be a misconduct.

6. **Terms & Conditions regarding award:**

- 6.1 Arbitrator is required to publish the award within 6 months of date of his/her appointment in the case.
- 6.2 The venue of arbitration shall be MTNL Corporate Office or MTNL Delhi at New Delhi or MTNL Mumbai at Mumbai. The Arbitrator may also carry out the Arbitral proceedings at his premises, however, MTNL shall not bear any expenses in this regard.
- 6.3 The number of cases referred to each empanelled arbitrator for arbitration shall be restricted to a maximum of two (2) at any time.
- 6.4 After completion of Arbitration and Publication of Award by an Arbitrator, a copy of the award should be sent to the MTNL Office which has appointed such Arbitrator.

7. **Assigning the cases:**

- 7.1 For all the disputes related to MTNL Corporate Office and MTNL Delhi contracts/agreements where the powers to appoint arbitrator lies with CMD MTNL, or any other officer of MTNL Delhi, arbitrator shall be appointed by CMD MTNL or such officer from the panel of arbitrators finalized for the MTNL Corporate Office and Delhi, having relevant expertise/experience.
- 7.2 For all the disputes related to MTNL Mumbai contracts/agreements where the powers to appoint arbitrator lies with CMD MTNL, or any other officer of MTNL Mumbai, arbitrator shall be appointed by CMD MTNL or such officer from panel of arbitrators finalized for the MTNL Mumbai, having relevant expertise/experience.
- 7.3 If the Arbitral proceedings are not completed by the Arbitrator in the stipulated time without any sufficient reason, then the appointing authority in MTNL shall have the right to transfer the case to any other Arbitrator and/or forfeit the remaining fee and/or remove such Arbitrator from its panel.

- 7.4. Arbitral proceedings are adjudication proceedings and it is important that the Arbitrator perform their functions with utmost honesty, integrity in the most unbiased, impartial and legit manner. So in case, if the appointing authority of an Arbitrator has strong reasons to believe that the Arbitral Proceedings are not being conducted in the unbiased, impartial or legit manner then such appointing authority in MTNL shall have the right to transfer the case to any other Arbitrator and/or forfeit the remaining fee and/or remove such Arbitrator from its panel.
- 7.5 MTNL shall also have the right to transfer the case to any other Arbitrator and/or forfeit the remaining fee and/or remove such Arbitrator from its panel if at any stage it is revealed that the applicant has knowingly submitted a false declaration at the time of submitted his/her application for empanelment as an Arbitrator in MTNL.
- 7.6 In cases covered under 7.3 to 7.5 the Arbitrator shall be liable to return all the records pertaining to Arbitral proceedings pending before him/her to MTNL.
- 7.8 These guidelines would be binding on the empanelled Arbitrators.
- 7.9 The provisions as provided in The Arbitration and Conciliation Act 1996 would be followed in all the Arbitral proceedings unless otherwise provided in the contract.

Deputy General Manager (Legal)

APPLICATION FOR EMPANELMENT OF ARBITRATOR IN MTNL

1.Name

2.Date of Birth

3.Permanent residential address and phone number/Mobile

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4.Educational Qualifications

5.Grade at the time of Retirement (kindly attach the copy of retirement order)

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6.Last post held

7.Place of retirement & PPO No.

8.Details of posts held for last 10 years proceeding to the year of retirement:-

S.No.	Post held	Year	Station/Circle

9.Specialization/Area of Experience:-

Sr No	Specialization/Experience (Telecommunication Procurements etc/Electrical or Civil/ Telecom Revenue/Others)	No of Years	Designation/Level	Main Responsibilities

*Applicants may attach separate sheet/s for describing their Area of Experience/Specialization(if required).

10. Experience as Arbitrator(If Any)

Sr No	Subject matter of Dispute (Telecommunication Procurements etc/Electrical or Civil/ Telecom Revenue/Others)	Designation/Level (When appointed as an Arbitrator)	Award Published (Yes or No)

*Applicants may attach separate sheet/s for describing their Experience in Arbitration(If required).

11. Empanelment applied forMTNL Corporate Office/MTNL Delhi/ MTNL Mumbai
(Strike out whichever is not applicable)

12.I hereby declare that:

- (i) I have retired on superannuation from(Name of organization) on (date) .
- (ii) I submit that there was no vigilance/disciplinary case pending against me at the time of my retirement and after retirement No Vigilance/Criminal case has been contemplated against me.
- (iii) No penalty was ever imposed against me in any vigilance/disciplinary case during my entire career.
- (iv) I also confirm that during last 5 years prior to my superannuation and as on date neither any vigilance charge sheet has been served to me nor any vigilance proceeding initiated against me.
- (v) Presently I am not employed anywhere.
- (vi) In case I am empanelled as an arbitrator in MTNL and I wish to resign from MTNL panel or to take any job/employment elsewhere, I will intimate DGM(Legal) MTNL, Corporate Office at least one month in advance before taking such employment or resigning.
- (vii) I also undertake to return all the record pertaining to matters pending before me to the appointing authority on transfer of any case from me to any other arbitrator, my resignation from the panel of MTNL, my removal from the MTNL panel of Arbitrators.
- (viii) The information given above is true to the best of my knowledge & belief.
- (ix) I hereby unconditionally agree to abide by the fee structure and other terms & conditions of the MTNL guidelines for empanelment and appointment of arbitrators.

Date:

Signature

Place:

Name of the Applicant.....

