

MTNL/CO/LEGAL/EMPANELMENT OF ARBITRATOR/2016

Dated 28.3.2019

To,

1.Executive Director
MTNL Delhi

2.Executive Director
MTNL Mumbai

3.CGM(W.S)
MTNL Delhi

Sub.: Empanelment with MTNL of retired JAG/SAG/HAG officers of Governments/ Central Public Sector Enterprises and Ex-Judge of District and Sessions Court/High Courts/Supreme Court in India as Arbitrators.

Sir,

MTNL Corporate Office proposes to constitute a panel of Arbitrators from persons who either have retired on superannuation at JAG level from Government of India/ E-7 level (or above) from other CPSEs (including MTNL/BSNL) or have been a Judge of District & Sessions Court/High Court/Supreme Court of India. Further, working officers of grade E-8 or SAG level and above of PSU's under the Administrative Ministry of DoT (other than MTNL) are also eligible to be empanelled as Arbitrator.

The detailed eligibility conditions and other applicable terms & conditions of empanelment are available for reference on the MTNL's website www.mtnl.net.in. **The last date for receipt of application in this regard from interested persons in this office is 15th May, 2019.**

It is requested that this may be accorded a wide publicity amongst the eligible officers in your jurisdiction.

Yours Faithfully,


28/3/19
(R K Singh)

General Manager (HR-II)

Encl: Notice & Guidelines

MTNL/CO/Legal/Empanelment of Arbitrators/2016

Dated / / 2019

NOTICE

Notice inviting applications from eligible persons to be empanelled in the MTNL panel of Arbitrators to adjudicate the disputes arising in respect of MTNL Delhi (including Corporate Office and WS) and Mumbai

Applications as prescribed in the attached guidelines are hereby invited from the Retired officers of Governments/MTNL/BSNL/other PSEs or working official of PSUs under the administrative ministry of DOT(other than MTNL) or Ex-Judge from any Court in India for empanelment with MTNL as an Arbitrator.

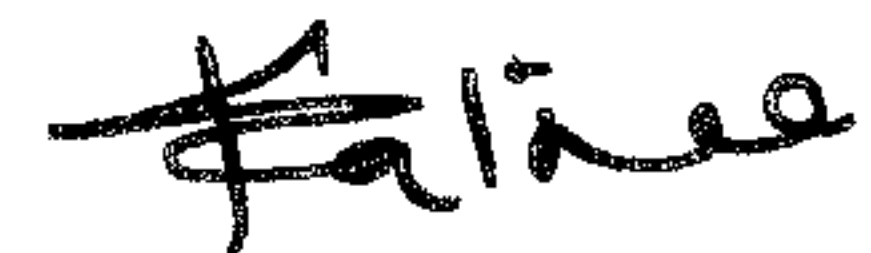
Based on the eligibility conditions and the procedure as mentioned in the attached guidelines, applications will be scrutinized by a committee and panel will be finalized.

The duly completed applications from the eligible persons must be submitted latest by 15.05.2019 at the following address.

**GM(HR-II) MTNL, Corporate Office,
Room No 4201, 4th Floor, MTNL building,
9, CGO Complex, Lodhi Road,
New Delhi-110003.**

No application received after the above due date will be entertained.

For details kindly visit MTNL website www.mtnl.net.in.



Sandeep Rathee

Deputy Manager(Legal)

MTNL, Corporate Office

011-24321156

Encl: As Above

Guidelines for empanelment and appointment of the retired JAG/SAG/HAG officers of Government Departments/ MTNL/BSNL/PSEs, and working officials of PSUs under the administrative ministry of DOT (other than MTNL) and Ex-Judge of District and Sessions Court/High Courts/Supreme Court of India as arbitrator for all cases in MTNL

It is proposed to expand the existing panel of Arbitrators consisting of retired officers of Government Departments/ MTNL/BSNL/other PSEs/ Ex-judge of District and Sessions Court/High Court/Supreme Court of India, for MTNL Delhi and MTNL Mumbai. The working officials of other PSUs under the Administrative Ministry of DOT can also be considered for appointment as Arbitrators. 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 the engagement of such empanelled persons as Arbitrator.

1. Conditions for empanelment as Arbitrator

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

1.1.1 The person should have retired on superannuation at JAG level/E-7 level or above from Government Department/ MTNL/BSNL/other PSEs or should have been a Judge of District and Session Court/High Court/Supreme Court. Officers who have retired from MTNL atleast three years prior to the last date of receiving application will only be eligible.

OR

The officials who are working at E-8 level or SAG and above in the PSUs under DOT Administrative Ministry can also be considered for such empanelment on reciprocal basis or subject to their producing NOC from their employers.

1.1.2 There must not have any vigilance case pending against him/her at the time of his/her retirement on superannuation in case of retired officers and at the time of the application in case of working officers.

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- 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 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 **31.09.2018**.
- 1.1.5 Such person shall be physically and mentally fit.
- 1.1.6 Such person shall not have been convicted or facing criminal prosecution.

1.2 **Classifications of Arbitrators**

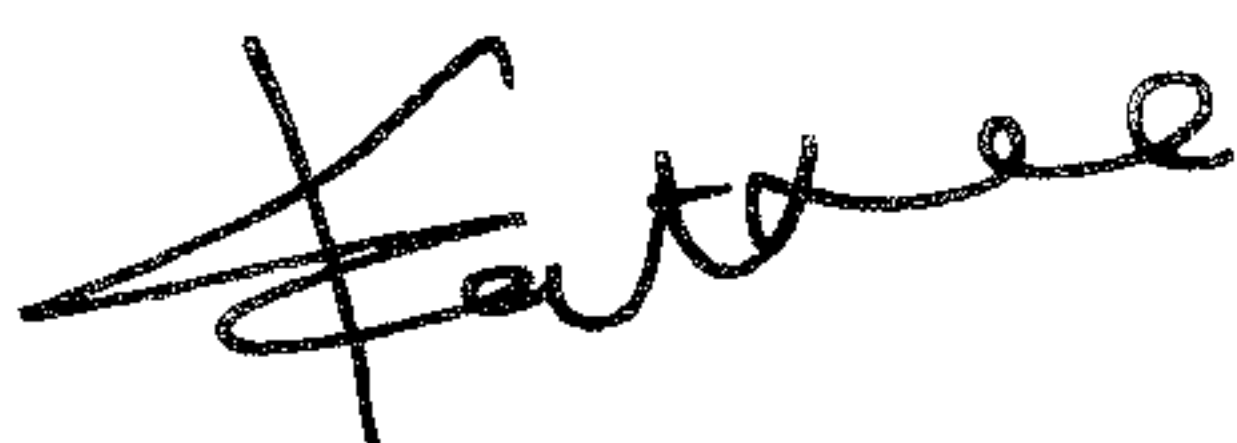
The panel of Arbitrators shall be designated in two classes.

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

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

2. **Allocation of cases:**

- 2.1 The cases where the amount in dispute is upto Rs. 50 lakhs, shall be referred to the persons empanelled under Class I.
- 2.2 The cases where the amount in dispute is more than Rs. 50 lakhs, shall be referred to the persons empanelled under Class II.
- 2.3 The cases shall be allotted to the empaneled Arbitrators on the basis of the Arbitration Agreement between the parties in dispute and subject to the terms and conditions of the Arbitration and Conciliation Act, 1996 as amended from time to time.



3. Payment Terms:

Fixation of Arbitration fee and other charges will be dependent on the value of Amount in Dispute and would be regulated in the following manner ::

Amount in Dispute	Fee Payable (in Rs.)
Upto 2 lakhs	10,000
More than 2 lakhs to 5 lakhs	20,000
More than 5 lakhs to 50 lakhs	20,000 + 0.5% of each Lakh above Rs. 5 lakh (subject to a maximum of 40,000)
More than 50 lakhs to 2 crore	40,000 + 0.4% of each Lakh above Rs. 50 lakh (subject to a maximum of 70,000)
More than 2 crore to 20 crore	70,000 + 0.3% of each crore above Rs. 2 crore (subject to a maximum of 1,10,000)
More than 20 crore to 50 crore	1,10,000 + 0.2% of each crore above Rs. 20 crore (subject to a maximum of 1,60,000)
More than 50 crore to 100 crore	1,60,000 + 0.1% of each crore above Rs. 50 crore (subject to a maximum of 2,20,000)
Above 100 crore	2,20,000 + 0.05% of each crore above Rs. 100 crore (subject to a maximum of 4,00,000)

- 3.1 In addition to above each Arbitrator would be entitled to Clerkage, towards Clerical, stationary and other miscellaneous charges etc, at the rate of 10 % of the fee payable to him.
- 3.2. 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.
- 3.3. 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 the Award.
- 3.4. A transport allowance of Rs 1000, per hearing, shall be payable to the Arbitrator and that shall be shared equally by the parties.

K. S. S. S.

- 3.5. 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 and the other party shall pay the fee in the same period.
- 3.6. If in terms of Arbitration Clause the Arbitral Tribunal is constituted of more than one arbitrator, then each Arbitrator shall be paid this fee individually in terms of the foregoing paras.

4. Methodology for Empanelment

- 4.1. The persons who wish to get empanelled should submit their application in the prescribed format (attached) alongwith the declaration in the annexure for empanelment of Arbitrators.
- 4.2. For empanelment of Arbitrators with MTNL Delhi, (including Corporate Office) and Mumbai the applications may be sent to GM(HR-II) MTNL, Corporate Office, Room No 4201, 4th Floor, MTNL building, CGO Complex, Lodhi Road, New Delhi.
- 4.3. The applications received will be submitted to the Screening Committee at MTNL Corporate Office for consideration.
- 4.3.1. The Screening Committee would comprise of GM (MM) Corporate Office, GM(HR-I) Corporate Office, GM(Fin) Corporate Office & GM (HR-II) MTNL Corporate Office. 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.

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 normally required to publish the award within One year of the 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 normally be restricted to a maximum of two (2) in every three consecutive years.
- 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:**

A handwritten signature in black ink, appearing to read 'K. S. S.', is located at the bottom right of the page.

- 7.1 For all the disputes related to MTNL Corporate Office and MTNL Delhi contracts/agreements where the powers to appoint/nominate arbitrator lies with CMD MTNL, or any other officer of MTNL Delhi, arbitrator shall be appointed/nominated 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/nominate arbitrator lies with CMD MTNL, or any other officer of MTNL Mumbai, arbitrator shall be appointed/nominated 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/nominating 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/nominating 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 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 submission of 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.
- 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 provided in the contract.

A handwritten signature in black ink, appearing to be 'S. K. Singh', written in a cursive style.

General Manager (HR-II)

APPLICATION FOR EMPANELMENT OF ARBITRATOR IN MTNL

1.Name

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2.Date of Birth

.....

3. Permanent residential address and phone number/Mobile/E-mail

.....

.....

4. Educational Qualifications

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5. Grade at the time of Retirement (kindly attach the copy of retirement order) / Present Grade Organisation (as applicable)

.....

6. Last/ Present post held alongwith Organisation (as applicable)

.....

7. Place of retirement & PPO No. / Place of present posting (as applicable)

.....

8. Details of posts held for last 10 years proceeding to the year of retirement/ date of application in case of working officials (as applicable):-

S.No.	Post held	Year	Station/Circle

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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 Delhi/ MTNL Mumbai
(Strike out whichever is not applicable)

12.I hereby declare that (strike out whichever is not applicable):

(i) I have retired on superannuation from(Name of organization) on (date) .

Or

I am working as (designation) with (name of organization) at (full address) since (year of appointment). I further submit that my employer has no objection in my applying for empanelment as an Arbitrator in MTNL.



(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.

Or

I submit that there is no vigilance/disciplinary case pending against me and no Vigilance/Criminal case is contemplated against me at the time of this application.

(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) In case I am empanelled as an arbitrator in MTNL and if I wish to resign from MTNL panel, I will intimate GM(HR-II) MTNL, Corporate Office at least one month in advance before such resigning.

(vi) 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 or my removal from the MTNL panel of Arbitrators.

(vii) The information given above is true to the best of my knowledge & belief.

(viii) 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.....



Annexure

DECLARATION

[As per Sixth Schedule (See Section 12(1) (b))]

1. That I am not ineligible for appointment as an Arbitrator according Fifth & Seventh schedule of the THE ARBITRATION AND CONCILIATION (AMENDMENT) ACT, 2015 No. 3 of 2016

2. Name: _____

3. Contact details: _____

4. Prior experience (including experience with arbitrations) _____
(As per Form A attached here) _____

5. Number of on-going arbitrations _____
(As per Form B attached here) _____

6. Circumstances disclosing any past or present relationship with or interest in any of the parties or in relation to the subject-matter in dispute, whether financial business, professional or other kind which is likely to give rise to justifiable doubts as to your independence or impartiality (list out).

7. Circumstances which are likely to affect your ability to devote sufficient time to the arbitration and in particular your ability to finish the entire arbitration within twelve months (list out)

Name:

Signature :

Address:

Date:

