

## **TRANSFER OF APPEALS/REFERENCE APPLICATION ETC.**

8.01 Procedure Rule 4 (2) provides for transfer of an appeal or application from one Bench to other by the President or in his absence by the senior amongst the Vice Presidents present or in their absence by the senior most member present where two or more Benches are functioning at any place. Such a transfer may be due to a judicial direction of a Bench before which the matter came up in the first instance or an administrative direction by the President prior to the case being taken up. So far as judicial directions are concerned, the files are to be put up before the President for formal orders.

In such cases the Assistant Registrar should put up the files to the President direct for orders and on their return journey the files will be routed through the Registrar/Deputy Registrar (Judicial) As soon as the files are received the Assistant Registrar will arrange for making necessary entries in the respective registers and send them to the concerned Bench through the Central Registry which will make a note in its Register before passing on the file to the concerned Bench Registry. The movement of the files will be through a messenger book. Files will be handed over only after obtaining the full signature and date of the Officer/Head Clerk who receives the file

8.02 In cases where appeal application files are to be transferred from Regional Benches (Madras Bombay and Calcutta) to the Benches located in Delhi the Central Registry at the Headquarters will receive the files and after taking orders of the President, send them to the concerned Bench Registry

8.03 The transfer may be necessitated by wrong allocation at the time of receipt of the appeal etc. The Assistant Registrar concerned should before fixing the case for hearing scrutinize whether the case relates to that Bench and if it is found that it is a case of wrong allocation, he should pass on the papers to the concerned Bench with a note "Passed on to Bench..... in accordance with President's order No.3 of 1982 and No.137 of 1983". In such a case if the Assistant Registrar of the Bench receiving the file is of opinion that the appeal does not relate to that Bench the papers shall be placed before the President for further orders.

8.04 Normally once the hearing notice has been issued, an appeal will not be transferred unless the Bench before which it has enlisted is totally lacking in jurisdiction to hear the appeal. In other words an appeal should not normally be transferred from one Special Bench to another Special Bench

8.05 If after issue of a notice of hearing, it is brought to the notice of the Registry either by the Departmental Representative or by the other Party that the case relates to another Bench the Assistant Registrar will take the orders of the Presiding Member immediately and proceed further in accordance with his orders. In such a case every effort should be made by the receiving Bench to hear the matter on the date intimated in the original hearing notice

8.06 No transfer will be effected at a stage where a matter has been taken up for hearing by a Special Bench unless there are very strong reasons for doing so. Since the division of work between Special Benches is not watertight, every Special Bench has a residuary jurisdiction to hear any Special Bench Case. This jurisdiction can be exercised to avoid the extreme inconvenience to parties which would result from a last-minute adjournment.

8.07 Where the transfer is effected from a Bench to another Bench for special reasons such as that a Member does not wish to hear a particular appeal on personal grounds necessary entries will be made in the Register No. CEGET-28. The Head Clerk of the Bench Registry will enter the details in the register and obtain initials of the Officer-in-charge of the Registry before sending the file to the concerned Bench Registry.

8.08 To ensure that such appeals etc are marked to the correct Bench the Central Registry is required to put up the markings made by the officer-in-charge of that Registry to the Deputy Registrar (Judicial) (or the Deputy Registrar (Admn) in the absence of the former) or Registrar.